

# Public Utilities

*FORTNIGHTLY*



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September 16, 1943

**RETROACTIVE REGULATION**

*By Luther R. Nash*

« »

**The Incremental Rate Plan**

*By Alfred V. Roberts*

« »

**Refunds Rather Than Rate Cuts during the War**

*By James D. Walker, Jr.*

« »

**Sleepy Stations Become Busy Junctions**

*By John Marchbank*

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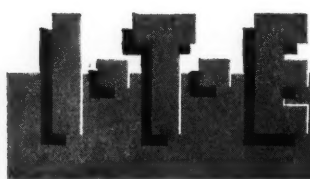
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THE BARBER GAS BURNER CO., 3704 Superior Avenue, Cleveland, Ohio

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# Public Utilities Fortnightly



VOLUME XXXII      *September 16, 1943*      NUMBER 6

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**Q** This magazine is an open forum for the free expression of opinion concerning public utility regulation and allied topics. It is supported by subscription and advertising revenue; it is not the mouthpiece of any group or faction; it is not under the editorial supervision of, nor does it bear the endorsement of, any organization or association. The editors do not assume responsibility for the opinions expressed by its contributors.

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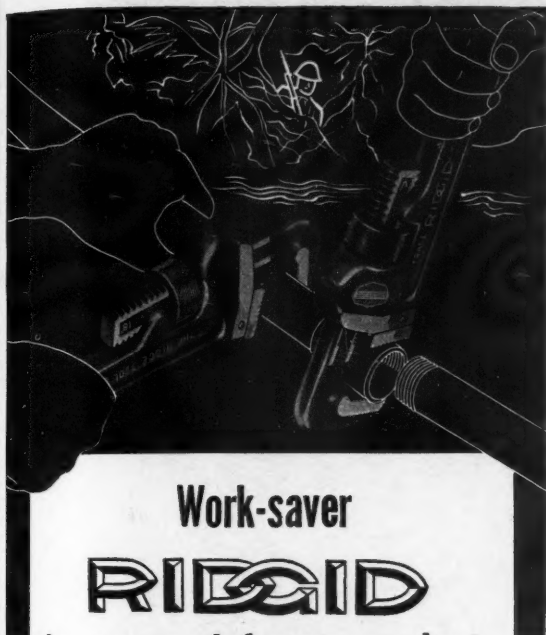
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SEPT. 16, 1943



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in this End Wrench  
for pipes in coils  
or against flat sur-  
faces.



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and the Busy Peace That's Coming*







## Pages with the Editors

As these lines are written the members of the National Association of Railroad and Utilities Commissioners are doubtless gathering for their fifty-fifth annual convention at the Edgewater Beach hotel in Chicago, September 14th to 16th. A little bird tells us that one of the most anxiously awaited features of the program will be—of all things—the report of the Committee on Depreciation. Since even such curious people as accountants do not ordinarily sit on the front steps and wait for the mailman to bring them treatises on depreciation, and since the subject has never been among those recommended for light reading on summer cruises, there must be something more here than meets the eye.

The fact is the NARUC Committee on Depreciation has been pursuing its somewhat tedious labors for more than two years, in an effort to bring to a convention of the NARUC a comprehensive document that would critically analyze all or most of the leading theories on accounting for utility depreciation for rate-making or other purposes. That such a task could be accomplished in two years, in view of the prolix and ponderous literature which has been accumulating almost since the days in 1898 when its parallel regulatory prob-



JAMES D. WALKER JR.

*A refund instead of a rate cut preserves the integrity of the rate structure.*

(SEE PAGE 349)

lem—the rate base value—was first thrust upon the attention of an apathetic world, is a tribute to the industry of the committee.

We can hazard a surmise that the committee's report will not be hailed with enthusiasm in all quarters. But we venture to hope that it may result in such a clarification of the problem that most of us will live to see the day when we can say authoritatively, "This is the prevailing doctrine; whether you like it or not, there it is." Furthermore, we hope to bring you in these pages an authoritative review of the committee's report after it has been properly released before the NARUC convention.



WHAT brings this little discussion about the NARUC committee's activities especially to mind, however, is that in this very issue by coincidence we have a leading article which bears very much on the regulatory outlook for depreciation accounting in the future. It is a timely discussion of so-called "retroactive regulation" by an admitted authority on the subject of depreciation, LUTHER R. NASH. MR. NASH will be readily recalled by readers of



LUTHER R. NASH

*Is hindsight regulation really forward-looking regulation?*

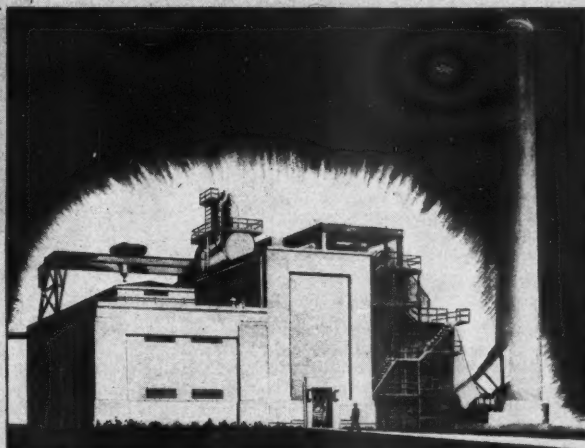
(SEE PAGE 333)

SEPT. 16, 1943



# ELECTRIC POWER

... never too late nor too little



## Another power plant is dedicated!

The wheels of industry are driven chiefly by electrical energy, which speeds production, reduces costs, multiplies manpower. The new steam electric generating station shown above will add nearly 50,000 horsepower to drive the wheels of SOUTH TEXAS industry.

Designed in April, 1941, it was constructed with a minimum use of critical materials, and it embodies the latest developments which make for high efficiency.



Today's electric power demands were foreseen long before the United States entered the war.

but the new power plant, which today is meeting those demands, is dedicated to help win the war for freedom—and to the more than 500 employees of the Houston Lighting & Power Company who have left their families and jobs to enter the armed forces of their country. When victory is earned, this plant will be named for one of their number.



The war industries in the area served by the Company are extremely vital to the war program. Ships, steel, magnesium, synthetic rub-

ber and petroleum are but a few products representative of South Texas' mighty contribution to ultimate decisive victory.

To provide dependable, low cost electric service in these industries and to the people of South Texas who man them is this Company's privilege and responsibility. To that end the Houston Lighting & Power Company dedicates—not alone the new power plant—but its manpower, resources and experience.



**HOUSTON LIGHTING & POWER COMPANY**

Reprinted from the HOUSTON PRESS, July 7, 1943.

1-400,000 lbs./hr. 1000 lbs. Press. 905° F. Temperature.  
RILEY STEAM GENERATING UNIT IS INSTALLED

## RILEY STOKER CORPORATION

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ST. LOUIS CINCINNATI HOUSTON CHICAGO ST. PAUL KANSAS CITY LOS ANGELES ATLANTA

### COMPLETE STEAM GENERATING UNITS

BOILERS - SUPERHEATERS - AIR HEATERS - ECONOMIZERS - WATER-COOLED FURNACES  
PULVERIZERS - BURNERS - MECHANICAL STOKERS - STEEL-CLAD INSULATED SETTINGS

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the FORTNIGHTLY for his long service as an official of the Stone & Webster organization. A graduate of the Massachusetts Institute of Technology in 1894 and of Harvard (SM, '98), MR. NASH has, in addition to his career as an appraisal engineer and rate expert, written numerous magazine articles and monographs on utility problems, including the well-known volume, "Economics of Public Utilities." His present home is in Ridgefield, Connecticut.

PROBABLY the most troublesome aspect of depreciation is the fact that utility property actually operates something like the old one-horse shay, for the most part at least. In many instances certain units, decades old, operate just as well as they ever did until the magic hour of replacement or breakdown when their value appears to go to pieces all at once. The quarrel of the experts seems to be as to just how the value of the old one-horse shay ought to be determined during all the years it is running around doing business at the same old stand.

A SOMEWHAT related problem to depreciation is the question of what should be done with excess earnings of utilities during the all too brief temporary period of boom prosperity, whether induced by war or other emergency. Of course, if it is a war emergency, Uncle Sam has a ready answer in the form of excess profits taxes. Then there are those who say that utilities should establish a sort of depression reserve to take care of the depreciation and replacement of overstrained equipment which must be replaced when the emergency is over and cannot, for obvious reasons, be replaced or even adequately maintained while the emergency exists.

FINALLY, there is the school of thought which would have such earnings turned back to the utilities' own customers instead of sending them off to a perfect stranger—to wit: Henry Morgenthau, Jr.—in the form of taxes.

SOME variation of this last-named school of thought is contained in the timely article beginning page 349 by a newcomer to these pages, JAMES D. WALKER, JR., chief accountant of the Arkansas Department of Public Utilities. MR. WALKER has been associated with the Arkansas department since 1935. He was formerly a member of an accounting firm in Little Rock, Arkansas, and is a certified public accountant of that state, as well as an associate member of the American Institute of Accountants.

A NOTHER new contributor in this issue is JOHN MARCHBANK, until recently general secretary of Britain's National Union of Railwaymen. His article on British railway operations during war periods begins on page 355. MR. MARCHBANK, who is a member of the Board of Overseas Airways Corporation, began his career as a shepherd, cattleman, and SEPT. 16, 1943



ALFRED V. ROBERTS

*Handling some additional business at cost may be good business in the end.*

(SEE PAGE 344)

dairyman. He entered the service of the Caldeonian Railway Company as a porter at the age of eighteen and has progressed steadily in the British transportation world ever since.

A NOTHER new idea on utility rate procedure is contained in the article by ALFRED V. ROBERTS, beginning page 344. MR. ROBERTS, a British-born American citizen, is a research engineer for the public utilities commission of the Hawaiian islands whose articles have previously appeared in the FORTNIGHTLY.

A MONG the important decisions preprinted from *Public Utilities Reports* in the back of this number, may be found the following:

ACCOUNTING entries relating to intercompany profits and write-ups, fees to affiliates, preferred stock expenses, organization expenses, and plant accounts were prescribed by the Utah commission when it approved an application for consent and approval of the acquisition by a parent company of all the property of a subsidiary. (See page 193.)

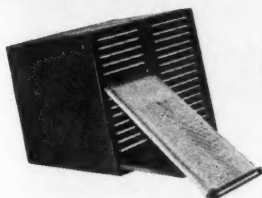
TOLL service in lieu of free interexchange telephone service was authorized recently by the Wisconsin commission. (See page 245.)

THE next number of this magazine will be out September 30th.

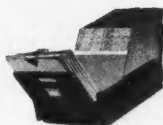
*The Editors*

A FEW OF OUR LABOR-SAVING WARTIME PRODUCTS  
that provide for every essential  
record keeping  
requirement.

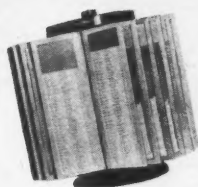
## SERVING THE ADMINISTRATIVE RECORD NEEDS OF BUSINESS MANAGEMENT



**THE KARDEX CABINET**—for efficient record keeping, rapid reference. Features Graph-A-Matic signal control of essential facts.

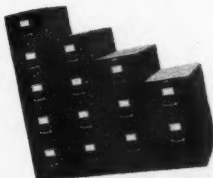


**KOLECT-A-MATIC**—for machine and hand posted accounting systems providing speedy, efficient filing of records.

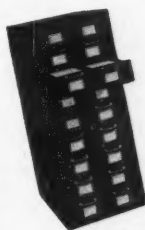


**LINEDEX**—one of four styles of visible reference equipment designed for time-saving operation on active indexes.

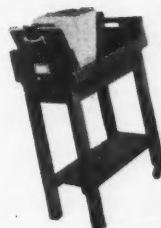
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ALTERNATE  
BINDERS**—  
utilize non critical  
materials. Variety  
of styles and sizes.



**THE GUARDSMAN VERTICAL FILE**—made in 2, 3, 4 or 5 drawer capacity, for legal, letter, and card files.



**TABULATING CARD FILE**—with removable drawer trays for speeding reference and use of vital tabulating cards.



**LEDGER TRAY**—available for eight sizes of ledger cards, with sitting or standing height bases.



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BUFFALO 3 • NEW YORK**

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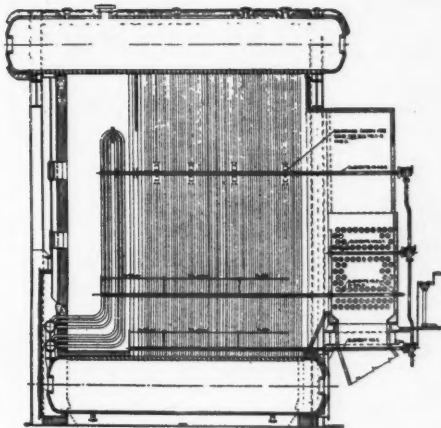
#### PREPRINTS FROM PUBLIC UTILITIES REPORTS

*Various regulatory rulings by courts and commissions reported in full text, pages 193-256, from 49 PUR(NS)*



# Another Example of VULCAN VERSATILITY in Soot Blower Design

**Vulcan unit makes notable  
4 year record in latest design,  
twin furnace Foster Wheeler  
steam generator installation  
at Oil City, Pa., station of the  
Keystone Public Service Company,  
operating on fuel relatively high  
in ash having a low fusion point.**



Vulcan unit in twin-furnace Foster Wheeler steam generator completes 4 years' service with NO TROUBLE AND NO MAINTENANCE.

... This despite unusual problems presented by fuel boiler and furnace design.

... As the drawing shows it was impracticable to install soot blowers from the front of the boiler as the furnace construction precluded installation of conventional type of elements and bearings to provide necessary protection and support.

... Hence, entry was made at the back necessitating carrying the elements a distance of about 26 ft., through the economizer and boiler tube banks to the superheater.

... Passage through high temperature, intermediate temperature and relatively low temperature zones, was the factor of exceptional length, greatly complicated the problems of securing adequate thermal protection, dependable support, and at the same time provide for expansion and contraction without danger of casting tubes.

Solution was found by using HyVULoy element

section for the high temperature area, VULcrom element for the intermediate, with the balance steel; and providing specially designed bearings to hold the members in such a way as to eliminate hazard of tube-cutting and directed expansion toward the back of the boiler, where it could be taken up by a suitable expansion joint.

... Because of the advanced design of this boiler involving new features in soot-blower design and construction, Vulcan engineers inspected the installation monthly for many months, but the engineering was so sound that no trouble of any kind developed—Results—Perfect Operation—Perfect Cleaning—Reasonable Cost—And—VULCAN SOOT BLOWERS WERE SPECIFIED when a duplicate Foster Wheeler twin furnace steam generator was recently ordered by Keystone Public Service Company.

... Whatever the characteristics of your boiler and setting, fuel, or load, Vulcan engineers can successfully solve any soot blower installation and operating problem involved. We invite your consideration of Vulcan service with respect to any soot blower need.

## VULCAN SOOT BLOWER CORPORATION

DU BOIS, PENNSYLVANIA

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# Remarkable Remarks

*"There never was in the world two opinions alike."*

—MONTAIGNE



ALFRED E. GIBSON  
*President, Wellman Engineering  
Company.*

"We can governmentalize every industry in America, but gentlemen, if we do that, I don't know why in God's name we are fighting Germany."

EDWARD MARTIN  
*Governor of Pennsylvania.*

"Money for subsidies is one of the most dangerous things in governmental practice. It is a form of bribery. It is economically unsound and governmentally dishonest."

THOMAS E. DEWEY  
*Governor of New York.*

"Ultimate power remains always with control of the purse. That is one measure of the extent to which the people have been losing power to the Federal government—power, influence, and the opportunity to share in working for the common good."

FREDERICK C. CRAWFORD  
*President, National Association of  
Manufacturers.*

"When the free word is suppressed, there is bound to go with it the free competitive system. In the course of 150 years this system of free enterprise has raised the masses of mankind in the western world from poverty and degradation and set their feet on the road to their just place in the sun."

EDITORIAL STATEMENT  
*Fortune.*

"Our domestic economy will have to operate in much closer harmony with the economy of the world than it has done in the past. Those responsible for its conduct will have to be keenly aware, as was unfortunately not the case during the last quarter-century, of the interdependence of nations. They will be obliged to take account of the enormous weight of the U. S. in world affairs—of the inescapable fact that a disturbance here rocks the boat, disrupting the economy of other countries and creating the conditions that breed wars."

EDITORIAL STATEMENT  
*Manufacturers Record.*

"Mouthing words like 'freedom from fear' when millions of our young men are facing fear and gaining courage and becoming real men by so doing shows a complete lack of understanding of the essential American spirit. Talking about 'freedom from want' which does not couple that thought with freedom to work is an admission that the American way of life is a failure. . . . It is time to turn a deaf ear to the charlatans who promise to pull a chicken out of the hat for everybody. Somebody has to raise the chickens, and somebody has to supply the hat. All that the charlatans do is supply the talk. And talk is cheap."

## To Minimize Mechanical Interruptions in the Office . . .



A phone call brings a Burroughs service man when you need him, but it's far wiser to arrange with Burroughs for periodic inspection, lubrication and adjustment of your Burroughs machines, so that emergencies, and the delays they entail, may be prevented. The standard Burroughs Service Agreement provides:

- Systematic inspection, lubrication and adjustment of your Burroughs machines at regular intervals.
- Emergency service as needed.
- Genuine Burroughs parts installed as needed.
- Service—on your premises—by expert service men, trained, supervised, paid by Burroughs.
- All work guaranteed by Burroughs.

Require at your local Burroughs office how you can obtain Burroughs service at a low, predetermined cost, or write—  
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# Burroughs

Adding, Accounting and Statistical Machines • Nationwide Maintenance Service  
Carbon Paper, Roll Paper, Ribbons and Other Office Machine Supplies

### MANUFACTURING FOR WAR

Manufacture of aircraft equipment for the Army Air Forces, and the manufacture of Burroughs figuring and accounting equipment for the Army, Navy, U. S. Government and the nation's many war activities, are the vitally important tasks assigned to Burroughs in the Victory Program.

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## REMARKABLE REMARKS—(Continued)

EMIL SCHRAM  
*President, New York Stock  
Exchange.*

"The only way to ward off inflation will be to supply people with plenty of everything."

FRED I. KENT  
*Chairman, postwar planning com-  
mittee, Commerce and Industry  
Association.*

"When the war is over we must be ready to utilize such wealth as may remain to the nation to build our new economic world. It will be far easier to recreate on this basis than to further dissipate the wealth of the country in deficit financing before real construction sets in."

EDITORIAL STATEMENT  
*The Wall Street Journal.*

"The investor who devotes capital to the public service in regulated utility operations must make up his mind to the certainty that as time progresses he will be held down to a minimum return of income on his investment and that this minimum in practice will be about that which he can secure from the courts under 'the law of the land.' Relief by that route, moreover, is likely to grow less certain than it once was, for the political attorneys for his 'customers' are bent upon changing that law, and there is no certainty that some day they will not succeed. Meantime they make successful recourse to it more and more difficult."

ERIC A. JOHNSTON  
*President, U. S. Chamber of  
Commerce.*

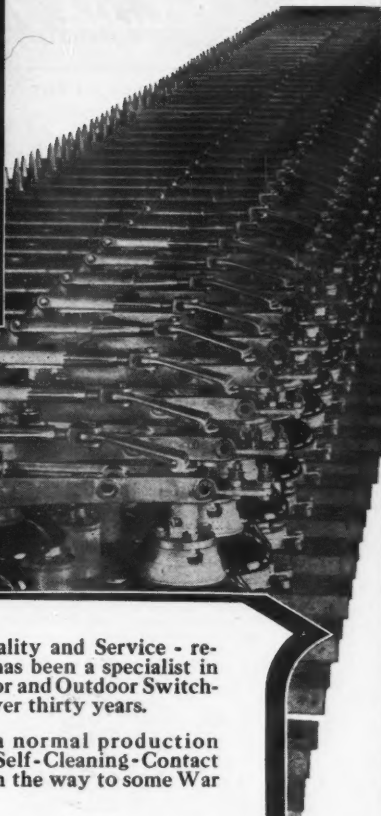
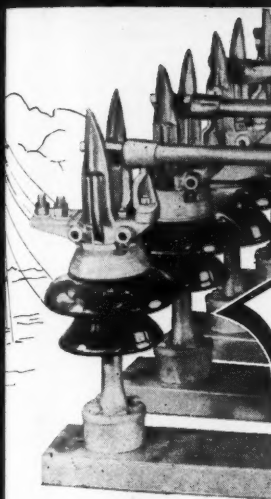
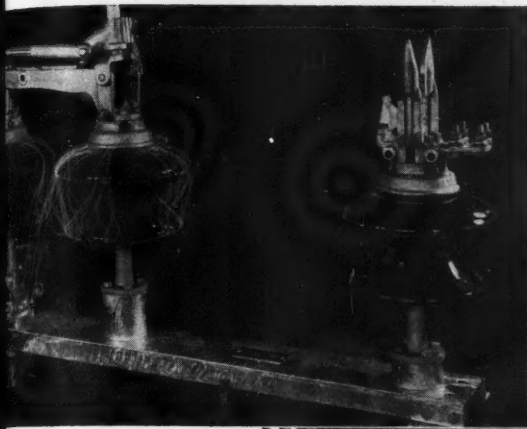
"The first premise of some of these [government] planners is that which is expressed by some British industrialists who feel that mass unemployment can be cured by the elimination of competition, by cartels, regulated production and consumption, and subsidized production and exports. I reject that theory. Not only would this eventually lead to state capitalism and some sort of fascism, but it would stifle freedom, kill liberty, and destroy democracy. They overlook the fact that mass unemployment has sprung not from the unregulated private enterprise of the nineteenth century, but from the regulated private enterprise of the twentieth century."

EDITORIAL STATEMENT  
*The Saturday Evening Post.*

"Although it is conceded that the complexities of modern life necessarily impose heavier burdens on administrative bodies, anybody who has had experience with an administrative agency soon finds out that administrative agencies tend to consider it their first duty to serve the convenience of administrative agencies and the ambitions of administrative agents. Unless the powers and functions of these agencies are strictly limited and defined by the legislature and unless provision is made to correct their excesses through appeal to courts, our last estate will be worse than our first. We should then achieve the ideal which was so cogently expressed by Walton Hamilton when he described the New Deal as 'a constitutional revolution which has freed social legislation and administrative control from the paralyzing grasp of the courts.' Add concentration camps and rubber hoses, and the net result is very much like Fascism."

# R&IE

## the Switching Equipment SPECIALIST



As you seek Quality and Service - remember that R&IE has been a specialist in the problems of Indoor and Outdoor Switching Equipment for over thirty years.

Shown here is a normal production line of Hi-Pressure, Self-Cleaning-Contact Switches, possibly on the way to some War Production center.

The flashover test, shown at the top, is one of the several methods used to check design and performance.

This same production may be serving you some day when peace-time reconstruction calls for a broader application of reliable switching equipment.

R&IE will continue to specialize in the making of this equipment long after the present War-time emergency.

The Load Tests made during development, during production, and after years of service, demonstrate that Hi-Pressure Contact Switches carry their rated load year in and year out under all service conditions

**RAILWAY and INDUSTRIAL ENGINEERING COMPANY**  
GREENSBURG, PA. . . In Canada—Eastern Power Devices Ltd., Toronto  
*Cooperating 100% with the War Effort*



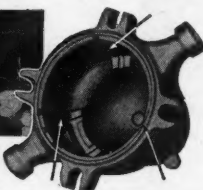
## Details Make Perfection

### TRIPLE PROTECTION FOR CAST IRON CASE



#### THE FINEST GREY IRON CASTINGS:

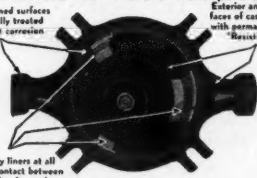
It takes fine cloth to make a fine gown and only top grade iron castings are used for the Victory. Note the recesses cast in the interior walls to hold the babbitting that forms the protective liners between outer case and measuring chamber.



#### POURING LEAD ALLOY LINERS:

View shows the interior of the Victory case after the lead alloy liners have been poured but before machining. This lining (patent applied for) provides a perfect jointing surface to prevent corrosion which would make removal of interior parts difficult.

All machined surfaces chemically treated to resist corrosion



Exterior and interior surfaces of casting protected with permanently bonded "Resistin" coating

Lead alloy liners at all points of contact between measuring chamber and case

**COMPLETE 3-WAY PROTECTION:** The three-way method of covering the cast iron surfaces of the Victory, detailed above, provides a fully rust-proof design, one that is treated, coated and laboratory tested to assure protection both for the duration and for years to come.

## in THE *Empire* VICTORY Meter

### PERFECTION is only an ensemble of detail.

In the Empire Victory, the care and attention that have been devoted to even the most minute details put this meter head and shoulders above the rank and file of other so-called war model meters.

The protection afforded the cast iron case against rust and corrosion is an outstanding example of design perfection. Not content with providing a mere "duration" stop-gap for bronze cases, Pittsburgh-National technicians perfected a three-way method of sealing the casting and machined surfaces to assure a permanency obtainable in no other make.

The "crown" of the Victory Meter is the all-glass register box—another development of Pittsburgh-National research.

On the operating side, this meter has the time proven Empire oscillating piston design, unequalled for accuracy and long life. Here, too, such details as a snap joint measuring chamber and the use of only three interior bronze castings that are assembled without screws, provide simplicity and compactness with an accessibility and ease of maintenance that are appreciated in the meter shop.



### THE *Empire* VICTORY METER

A Fully Protected Iron Case Water Meter with Clear Vision All-Glass Register Box

INVEST TODAY IN BONDS FOR VICTORY

### PITTSBURGH EQUITABLE METER COMPANY

BOSTON BROOKLYN COLUMBIA MERCO NORDSTROM VALVE COMPANY

BUFFALO CHICAGO HOUSTON KANSAS CITY MAIN OFFICES, PITTSBURGH, PA. LOS ANGELES SAN FRANCISCO

MEMPHIS NEW YORK PITTSBURGH SEATTLE TULSA

NATIONAL METER DIVISION, Brooklyn, N. Y.

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Founder of Tree Surgery

## Davey Does Good Work

Davey offers no "bargain prices" but proposes to give you honest, trouble-free service that will build good will and will prove a wise investment. The best is often the most economical. Try Davey.

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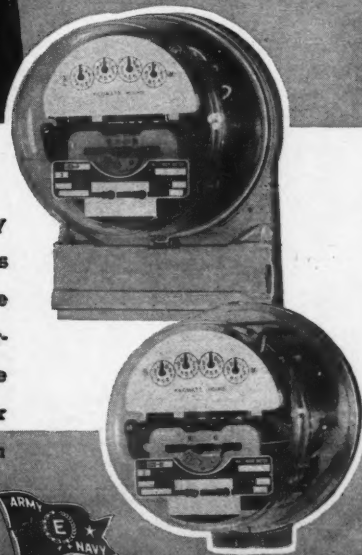
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2849 N. Clark St., Dept. GE-9, Chicago 14, Illinois

FIGHT WITH WAR BONDS

# ★ THE Future OF MODERN METERING

THE cooperation of the electric utility industry with the watthour meter manufacturers has kept the design and development of the modern watthour meter well ahead of metering requirements. Thanks to this cooperative spirit, watthour meters will again play their important part in system modernization when normal times are once more restored.



SANGAMO ELECTRIC COMPANY

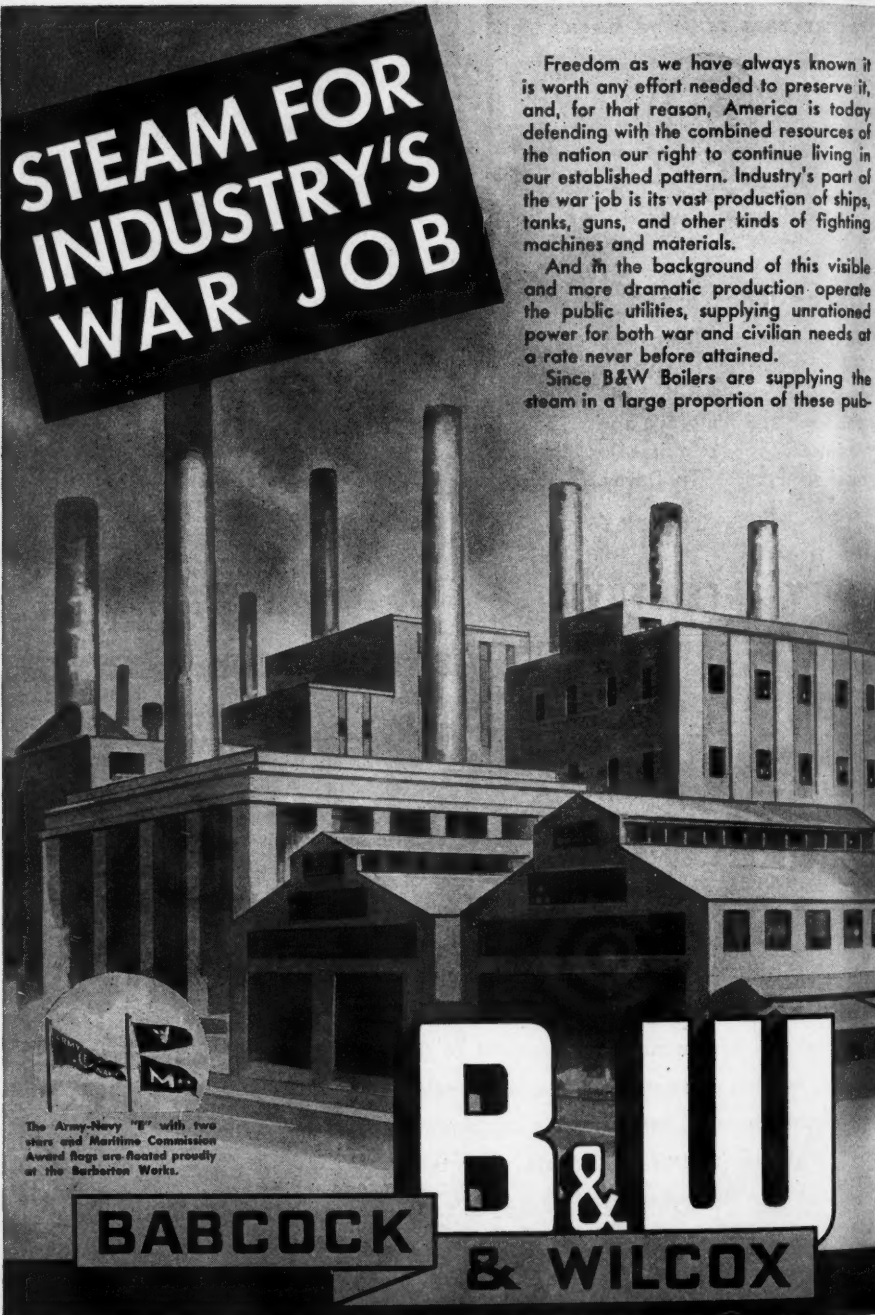
SPRINGFIELD - ILLINOIS

# STEAM FOR INDUSTRY'S WAR JOB

Freedom as we have always known it is worth any effort needed to preserve it, and, for that reason, America is today defending with the combined resources of the nation our right to continue living in our established pattern. Industry's part of the war job is its vast production of ships, tanks, guns, and other kinds of fighting machines and materials.

And in the background of this visible and more dramatic production operate the public utilities, supplying unrated power for both war and civilian needs at a rate never before attained.

Since B&W Boilers are supplying the steam in a large proportion of these pub-



The Army-Navy "E" with two stars and Maritime Commission Award flags are floated proudly at the Babcock Works.

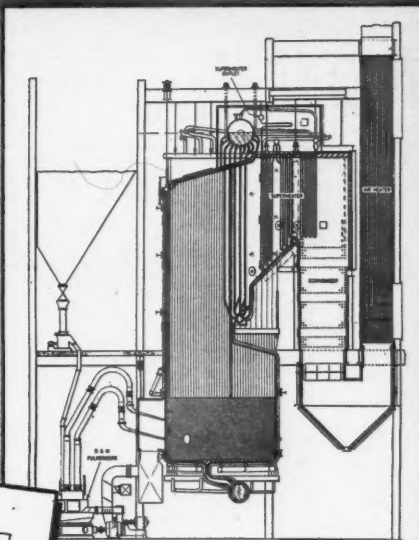
## BABCOCK

# B & W

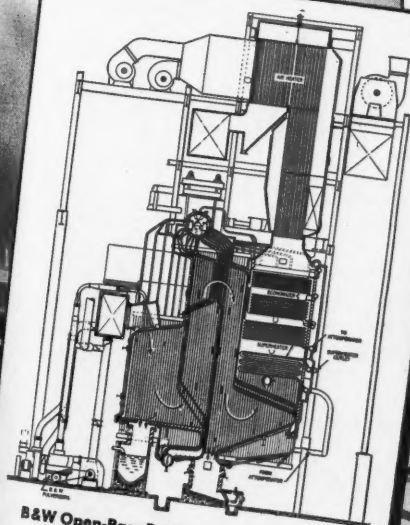
## & WILCOX

lic utility and industrial power plants, and for propelling naval and cargo ships, B&W is playing a substantial part in this great war effort. B&W engineering and production skill have built into its boilers the stamina to endure today's gruelling drive.

With today's accelerated experience yielding more complete answers to such problems as behavior of metals at high temperatures, action of fuels in slag-tap and dry-ash furnaces, circulation in high-capacity high-pressure boilers, separation of steam from water in boiler steam drums, and other related problems, the boilers of tomorrow should be even better able to serve industry.



**B&W Radiant Boiler in an eastern central station—Capacity 400,000 lb. steam per hr.**



**B&W Open-Pass Boiler in an eastern central station—Capacity 350,000 lb. steam per hr.**

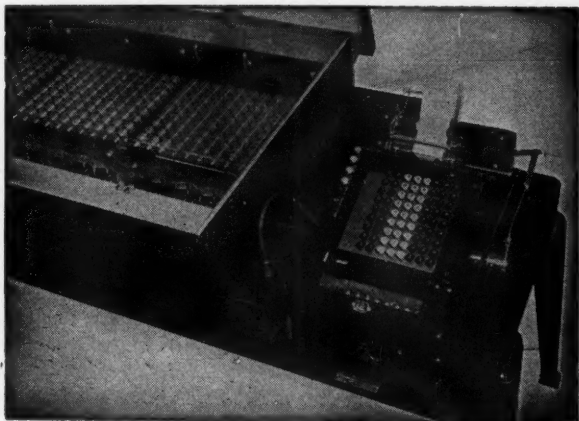
**THE BABCOCK & WILCOX COMPANY**  
85 LIBERTY STREET NEW YORK 6, N. Y.

G-254

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# SAVE 50% IN TIME AND MONEY WITH

## THE ONE-STEP METHOD



## OF BILL ANALYSIS

**W**HAT effect is the war production program having on your bill distribution? Analysis of customer usage data will provide the answer to this important question. In addition to a knowledge of the existing situation, certain trends may be disclosed, a knowledge of which may be of considerable importance to you under circumstances where the picture is rapidly changing.

*The One Step Method of Bill Analysis* is ideally suited to meet the needs of this problem. It does away with the necessity for temporarily acquiring, training and supervising a large clerical force. Our experienced staff plus our specially designed Bill Frequency Analyzer machines can turn out the job in a few days and at the cost of only a small fraction of a cent per item.

We will be glad to tell you more in detail about this accurate, rapid and economical method for obtaining a picture of your customer usage situation. Write for a copy of the booklet "*The One Step Method of Bill Analysis*."

### Recording & Statistical Corporation

Utilities Division

102 Maiden Lane, New York, N. Y.

Boston

Chicago

Detroit

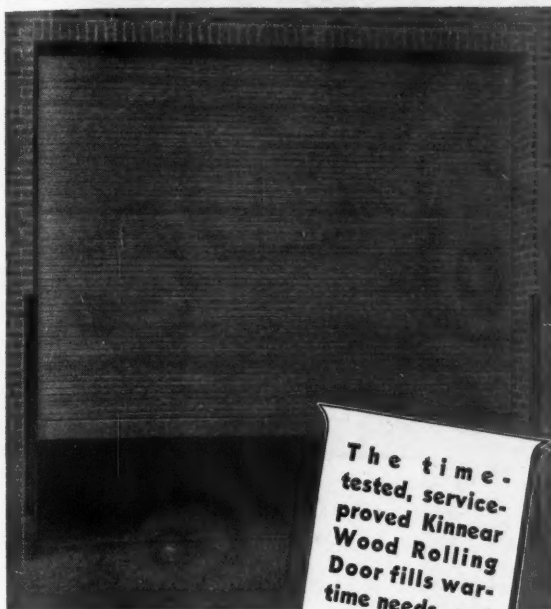
Montreal

Toronto

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**Here's Wartime Door  
Efficiency Backed by  
Years of Fine Performance**



*The time-tested, service-proved Kinnear Wood Rolling Door fills wartime needs, and saves critical materials.*

**AVAILABLE FOR**

**KINNEAR  
WOOD  
ROLLING  
DOORS**

**WARTIME NEEDS**

Makers of the famous Kinnear Steel Rolling Door have a time-proved, metal-saving answer to wartime door needs—the Kinnear WOOD Rolling Door! It incorporates the efficient principle of coiling upward action proved for so many years in steel rolling door installations! It saves steel without sacrificing efficiency! The wood-slat curtain is assembled for strength; for full, year 'round protection against the elements; for smooth, easy operation. Spring counterbalanced and coiling above the lintel, it is convenient . . . saves space . . . leaves an un-

obstructed opening . . . opens out of the way . . . is less subject to damage. It is built in any size, with manual or motor operation, and is suited to old or new installations—exterior or interior. The perfect answer to "duration" door problems!

**WRITE TODAY FOR NEW BULLETIN  
ON KINNEAR WOOD ROLLING DOORS**

**THE KINNEAR MANUFACTURING CO.**  
2060-80 Fields Ave. Columbus 16, Ohio  
Offices and Agents in Principal cities  
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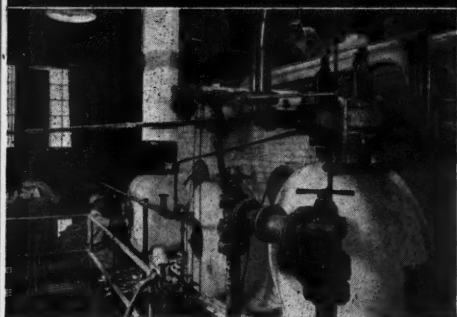
**SAVING WAYS  
IN DOORWAYS**

**KINNEAR  
ROLLING DOORS**

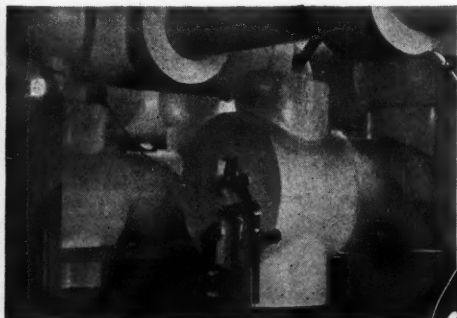
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STEAM PIPE INSULATION  
**J-M 85%  
 Magnesia**

The Most Widely  
 Used Specification  
 in Power Plant  
 Insulation for  
 More Than 50 Years



**FOR PIPE COVERING** . . . J-M 85% Magnesia Pipe Insulation is furnished in 3 ft. sections or segments in the following thicknesses: Standard, 1½", 2", 2½", Double Standard and 3" (Double Layer). Often used as a second layer, outside of J-M Superex, where pipe temperatures are above 600° F.



**IN BLOCK FORM** . . . J-M 85% Magnesia Blocks are furnished 3"x18", 6"x36", 12"x36", in thicknesses of 1" to 4". Weight, about 1.4 lb. per sq. ft., per 1" thick.

### . . . and for good reasons

At service temperatures up to 600° F., no insulation delivers more thoroughly satisfactory performance than J-M 85% Magnesia. That's a fact that's been proved time and again in power plants of every type. Light in weight, readily cut and fitted, J-M 85% Magnesia is easy to install. On the job, it provides ample mechanical strength, long life and high insulating efficiency. Engineers agree that, wherever used, J-M 85% Magnesia assures permanently economical service.

Consult your nearest J-M District Office about your magnesia requirements, or write Johns-Manville, 22 East 40th Street, New York, N. Y.

**JOHNS-MANVILLE**  
 INDUSTRIAL INSULATIONS  
 For every temperature . . . for  
 every service condition





Save to Win  
with these four simple rules  
of battery care:

- 1 Keep adding approved water at regular intervals. Most local water is safe. Ask us if yours is safe.
- 2 Keep the top of the battery and battery container clean and dry at all times. This will assure maximum protection of the inner parts.
- 3 Keep the battery fully charged—but avoid excessive over-charge. A storage battery will last longer when charged at its proper voltage.
- 4 Record water additions, voltage, and gravity readings. Don't trust your memory. Write down a complete record of your battery's life history. Compare readings.

If you wish more detailed information, or have a special battery maintenance problem, don't hesitate to write to Exide. We want you to get the long-life built into every Exide Battery. Ask for booklet Form 3225.

**Exide**  
**CHLORIDE**  
**BATTERIES**

... is a vital principle  
of utility operation!

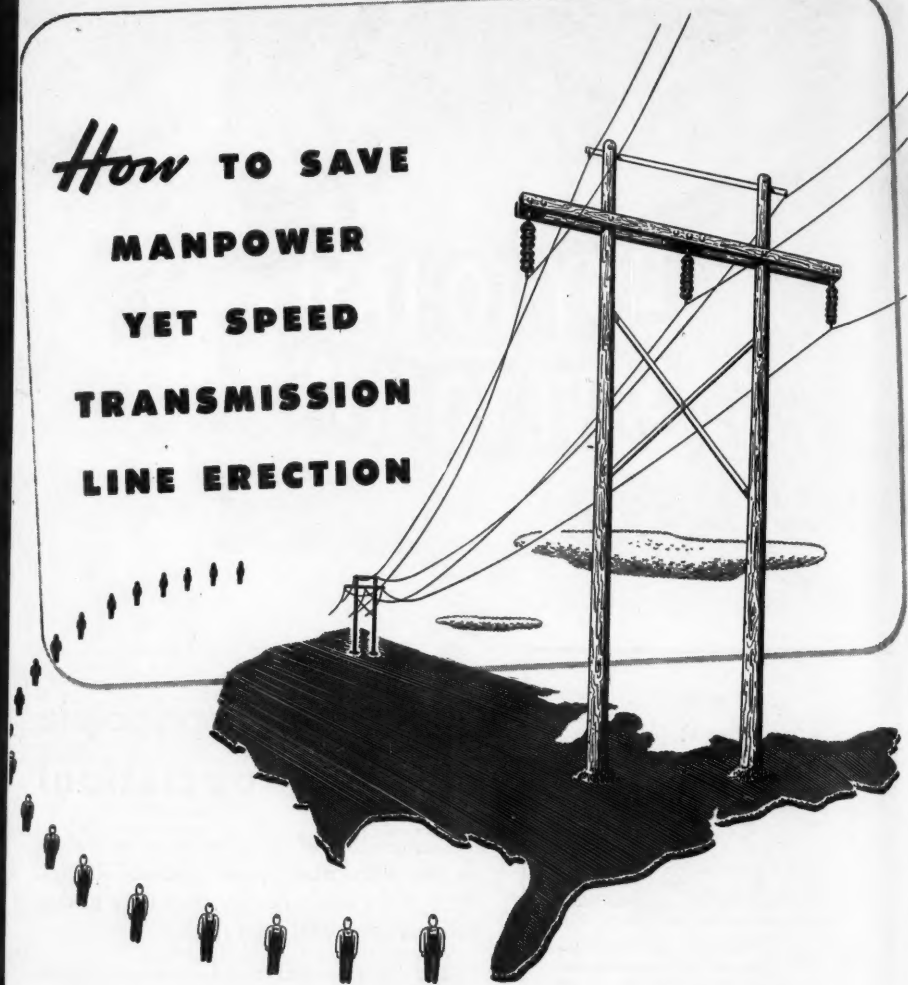
Conservation of materials is no new story to the men who operate public utilities. With thrift and efficiency they have always planned for conservation.

They've squeezed the last ounce of use out of materials and equipment in their care . . . and today, that need is intensified.

One helpful principle to follow is that of "Buy to Last—Save to Win." Buy quality products and equipment, then care for it to avoid needless replacement. That conserves raw materials, labor, and space in factories. It frees these productive elements for essential war production.

THE ELECTRIC STORAGE BATTERY CO.  
Philadelphia  
Exide Batteries of Canada, Limited, Toronto

**How TO SAVE  
MANPOWER  
YET SPEED  
TRANSMISSION  
LINE ERECTION**



**HOOSIER  
ENGINEERING CO.**

COLUMBUS, OHIO

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**T**hroughout the country our trained men are ready to help you meet today's unprecedented demand for power. In the erection or maintenance of transmission lines . . . regardless of distance or terrain . . . Hoosier experience and special equipment guarantees efficient and economical service.

**ERECTION and MAINTENANCE OF TRANSMISSION LINES**

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## STRAFER BEWARE!

WHEN the Half-Track raises its umbrella of ack-ack fire, there's trouble above for the strafe . . . as there is trouble below for tanks that rumble within range of its mighty 75. . . Fighting on all fronts, Half-Tracks by Autocar are upholding the performance expected of this famous name. Yet they are only one of the mobile units rolling out of Ardmore for our Army, Navy, Marine Corps, and Air Forces. . . Stand by for better *trucks* to come. Keep your pledge to the U. S. Truck Conservation Corps.

# AUTOCAR

MANUFACTURED IN ARDMORE, PA.

SERVICED BY

FACTORY BRANCHES FROM COAST TO COAST



Buy More Bonds for Victory





# THE MONEY

## *you won't have to pay*

**EVERYBODY KNOWS** about America's war output. The guns and tanks, the bombers and the warships are there for all to see—and for our enemies to feel.

There is another product of industry that can't be seen, though you feel its effect in your pocketbook. Engineers and production men call it stepping up efficiency. Most other people would call it "savings."

Savings are what you get when you put experienced, competent production men on a new manufacturing job. Not at first, of course. Those first guns, shells, and airplanes are expensive. But as the job runs on, savings begin. An engineer designs a new tool to reduce spoilage, increase output. A foreman relocates machines to save two cents on every piece in handling. An employe submits a suggestion for better production to his Labor-Management Production Drive Committee. All this, while the quality of work is maintained or improved, for quality always comes first.

Small things? Yes. But when you add thousands of manufacturing improvements, you get tremendous savings.

Consider the savings already made on three of the many Harvester war jobs—a 20 mm. aircraft cannon, an anti-tank gun carriage, and the Oerlikon anti-aircraft gun mount.



Four Harvester plants have been awarded the Army-Navy "E" for excellence. Two of these have also earned the White Star.

The price of the Oerlikon gun mount has been cut almost in half. The price of the anti-tank gun carriage has been reduced one-third. The original price of the 20 mm. cannon would almost buy two cannon now.

On those three jobs alone, price reductions our Company has made to the government—which means to you who pay the government's bills—amount to more than \$16,000,000. That is the difference between the original price and the price today. That is the savings, the money you will *not* have to pay.

These price reductions stemmed from a pledge, made by this Company, that we would handle all war work at no more than a moderate profit, and that we would give the government the benefit of manufacturing savings by voluntarily reducing prices whenever possible. That pledge was made *before* there was any law regulating profits or prices on war production.

Further savings will be made on these and other jobs. This program will go on because it is the very root of the American industrial system . . . a program of reducing costs, improving quality, and increasing production.

The ability to improve, and to save at the same time, benefits all Americans. It holds the best and brightest promise for a secure future.

**BUY WAR BONDS . . .  
SAVE AND SERVE AMERICA**

## INTERNATIONAL HARVESTER

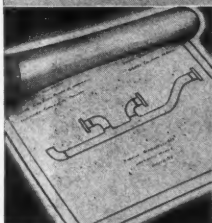
*Builders of Ordnance, Automotive and Food Production Equipment for the United Nations*

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# More Power to you

Engineering interpretation of complex piping plans.

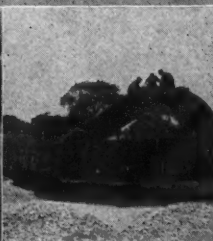
Top-notch fabricating facilities in conveniently located plants.



Handling every type of pipe fabrication and machining.



Expertly fabricated sub-assemblies arrive ready to drop into place.



Engineers seeking added power for leading utilities, petroleum, chemical, paper companies and allied fields, after repeated experience with Grinnell's engineering and fabrication facilities are "Giving the Plans to Grinnell".

You will find it a *time-saving practice* for any piping system from the simplest to the most complex. Write for Data Book of "Grinnell Prefabricated Piping". Grinnell Company, Inc., Executive Offices, Providence, R. I. Branches in principal cities of the U. S. and Canada.

## GRINNELL

WHENEVER PIPING IS INVOLVED

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Hydraulic Turbines—Francis and Propeller Types  
Rack Rakes  
Trash Racks  
Valves—Pipe Line and Penstock

**NEWPORT NEWS SHIPBUILDING  
AND DRY DOCK COMPANY**

**NEWPORT NEWS, VIRGINIA**

BE GUIDED

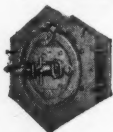
# KERITE CABLES

INSTALLED IN  
1909, 1910, 1911

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## TWO-MILE CURTAIN OF HOT STEEL...GOING UP!



### IN PLANTS OF ALL TYPES TODD BURNERS ARE WORKING FOR VICTORY

Wherever trouble-free, dependable combustion of liquid and gaseous fuels is a necessity . . . on land or sea . . . Todd Burners are delivering unsurpassed performance in the production of heat and power.



With desperate fury they dive in . . . trying to break through to bomb their target. But these Nazi bombers get just so far, then—WHAM! . . . they crash into a curtain of hot, tearing steel. For down there on the ground is a ring of American anti-aircraft guns . . . each one hurling more than a hundred two-pound shells two miles into the sky—every minute!

To produce such intricate guns on a mass scale was a stern challenge to American industry. Just how well this challenge has been met is, of course, a military secret. But on every fighting front, the mounting number of dead Nazi and Jap airmen is mute testimony to the job that has been done . . . a job that reflects the ability of America's industrial might to produce whatever is necessary for victory, be it planes, tanks, ships, shells or guns.

**TODD SHIPYARDS CORPORATION**  
**TODD COMBUSTION DIVISION**  
601 West 26th Street, New York City

NEW YORK      MOBILE      NEW ORLEANS      GALVESTON  
SEATTLE      BUENOS AIRES      LONDON

TODD BURNERS ★ ★ ON THE FIRING LINE OF AMERICA'S WAR PRODUCTION FRONT

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*In any Climate... On any Job...*

# DAVEY COMPRESSORS

**RESIST WARTIME WEAR  
FULL TIME PLUS OVERTIME**



## WARTIME CONSERVATION POINTERS

By "Davey Dan,"  
the Compressor Man

**AIR CLEANERS.** These filters pay big "service dividends" for the small amount of attention required. Examine one of the filters every day. If it needs cleaning, the others will need it also. Empty and clean the sediment bowl. Fill with clean engine oil, level with bottom bead. Wash filtering element with oil and blow out with air. Never use gasoline or kerosene for cleaning air filters because such practice may lead to explosions in the air receiver.

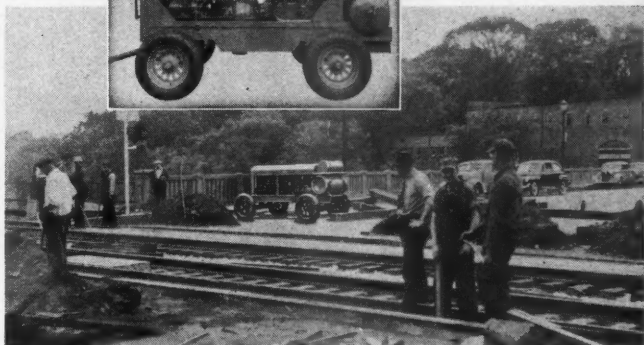
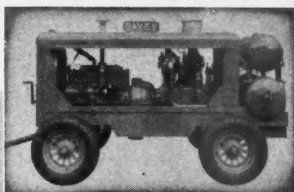
**PRESSURE GAGES.** Should be checked periodically with a master gage.

**SAFETY VALVES.** Keep them clean and in working order by blowing at least once a day.

**PACKINGS.** Keep all packings on air joints snug enough so that no air is wasted through leakage.

**FAN BELTS.** V-belts should be tight enough to prevent excessive slippage but not as tight as a flat belt used under similar conditions.

**ENGINE SPARK PLUGS.** Keep the electrodes clean and spark gap properly adjusted. Never attempt to bend the center electrode as this will crack the porcelain.



## Here's Why Davey Compressors Stand Today's Crucial Tests

**1. RUGGEDNESS.** The outstanding characteristic of EVERY Davey Compressor is the ability to "take it" and come back for more in any CLIMATE or on any JOB. From the smallest pin to the heavy gage steel frame, every part of a Davey Compressor is designed and built so that, like a mountain locomotive, it always has a reserve of rugged endurance to get you "over the hump."

DAVEY Portable Compressors are available in the following sizes: 60-105 (illustrated)—160-210-315 cubic foot sizes, with gasoline, Diesel or electric power. Write for catalog showing complete DAVEY line.

**2. CONSERVATIVE SPEED.** Davey Compressors operate at moderate speeds, reducing operating trouble, minimizing maintenance costs, and greatly extending the life of the equipment. Engineering leadership, maintained through the years, today offers you the ONLY compressor with GUARANTEED LIFETIME VALVES—guaranteed to operate satisfactorily in any climate . . . on any job—to resist wartime wear everywhere.

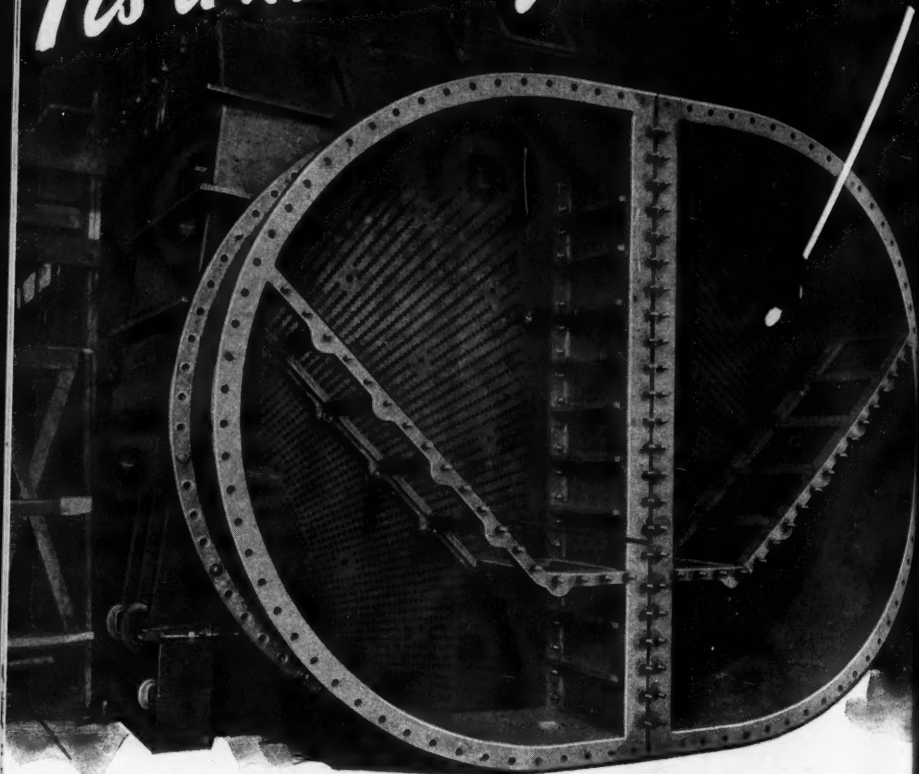
## ★ ★ ★ ★ ★ Some distinguished users of DAVEY Compressor equipment

Barker Bros. Construction Co., Denver, Colo.  
Cleveland Railway Company • Connecticut  
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pany, Toledo, Ohio • Globe Contracting  
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and Telegraph Co. • Philadelphia Transpor-  
tation Company.



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# *It's a matter of tube layout*



**CONDENSER EFFICIENCY** depends upon many factors of first importance being the arrangement of the tube banks. This is a matter which has been the subject of years of research and development by Elliott engineers, the results of which are amply demonstrated in performance of Elliott condenser installations at various important utility power plants.

The unit illustrated has over 22 miles of tubes, so placed as to give maximum condensing effect at lowest pumping and auxiliary cost.

Talk over your next condenser job with Elliott engineers. They will have suggestions of value.



A star has been added to the Army-Navy "E" flag flown by both the Jeannette and the Ridgway plants of Elliott Company.

**ELLIOTT COMPANY**  
Heat Transfer Department, JEANNETTE, PA.  
DISTRICT OFFICES IN PRINCIPAL CITIES

-378

# ELLIOTT *builds good* CONDENSERS



## Utilities Almanack

Due to war-time travel restriction, conventions listed are subject to cancellation.



SEPTEMBER



16	T <sup>h</sup>	¶ National Association of Railroad and Utilities Commissioners concludes convention, Chicago, Ill., 1943.	
17	F	¶ American Water Works Association, New York Section, will hold session, Binghamton, N. Y., Sept. 30-Oct. 1, 1943.	
18	Sa	¶ American Society of Mechanical Engineers and Engineering Institute of Canada will hold joint conference, Toronto, Ont., Can., Sept. 30-Oct. 2, 1943.	
19	S	¶ National Safety Council will hold congress and exposition, Chicago, Ill., Oct. 5-7, 1943.	
20	M	¶ Controllers Institute of America opens meeting, New York, N. Y., 1943.	
21	T <sup>u</sup>	¶ American Gas Association will convene, St. Louis, Mo., Oct. 11-13, 1943.	☉
22	W	¶ American Water Works Assn. West. Pa. Sec., starts meeting, Pittsburgh, Pa., 1943. ¶ Pacific Coast Gas Association opens convention, Los Angeles, Cal., 1943.	
23	T <sup>h</sup>	¶ Pennsylvania Electric Association convenes, Pittsburgh, Pa., 1943.	
24	F	¶ American Water Works Association, Missouri Valley Section, will hold meeting, Des Moines, Iowa, Oct. 12-15, 1943.	
25	Sa	¶ Illuminating Engineering Society will hold meeting, New York, N. Y., Oct. 13, 1943.	
26	S	¶ Electrochemical Society will hold fall meeting, New York, N. Y., Oct. 13-16, 1943.	
27	M	¶ International Municipal Signal Association starts war conference, Cleveland, Ohio, 1943.	
28	T <sup>u</sup>	¶ New England Water Works Association starts meeting, Boston, Mass., 1943.	
29	W	¶ National Metal Congress will convene, Oct. 18-22, 1943.	☾



*A mural by Ezra Winter, reproduced by courtesy of Bank of the Manhattan Company*

*This painting depicts the opening of the Manhattan Company's first office (in the building at the right). In it are shown Aaron Burr, one of the founders, as well as John Stevens, the eminent engineer, and Daniel Ludlow, the first president of the Manhattan Company.*

# Public Utilities

*FORTNIGHTLY*

VOL. XXXII; No. 6



SEPTEMBER 16, 1943

## Retroactive Regulation

A new policy adopted by some of the commissions with respect to rate reductions and the treatment of depreciation which, in the opinion of the author, produces unsatisfactory results from the standpoint both of the utilities and the public.

BY LUTHER R. NASH

FOR more than thirty-five years the operating and financial affairs of public utilities in this country have been subject, in increasing measure, to regulation by local, state, or Federal agencies. The number now free from any such regulation is relatively small. Although these various agencies operate under independent laws and are subject to recurrent changes in personnel, sometimes through election rather than appointment, the general pattern of their procedure has reached reasonable uniformity. It is the general rule that the regulated utilities should be free to earn

sufficient income not only to insure their continued solvency but also to attract the added capital needed for the constantly expanding public service which they are obligated to render.

These results have not always been attained nor have the specific methods used been wholly consistent. For many years the controversy as to whether the rate base should be fair value or investment has continued unabated and still lacks clarification by our Supreme Court if such clarification should go beyond the assertion that it is results rather than methods that are controlling. Many of the state commissions



## PUBLIC UTILITIES FORTNIGHTLY

have followed the fair value rule, nominally at least, while a few others have in effect ignored that rule, regardless of possible legal consequences, and adhered to investment. Two states have so adhered for so many years that a very large proportion of investment has been made under that rule with the understanding that it may continue. It is not the purpose of this article to undertake a general review of regulatory methods but rather to discuss certain recent significant developments relating directly or indirectly to rates.

LIKE other regulatory procedure, that relating to rate levels has become well standardized. The necessary first step to bring about a reduction, the more common proceeding, is a complaint by a group of customers or the commission itself. Informal discussions of the matter between commission and utility may lead to a settlement satisfactory to all parties concerned; in fact a very large proportion of all complaints are so settled. In the absence of such agreement formal hearings are held, an order of the commission based thereon is issued and, barring appeal to the courts, becomes duly effective.

The general intent of the regulatory laws may be expressed by the language of a number of them to the effect that such order shall apply only to rates "*thereafter* observed and in force." (Italics supplied.) The obvious assumption in this language is that rates in effect and on file with the commission are *prima facie* reasonable and should be maintained until shown to be otherwise by appropriate procedure. Reductions normally become effective with bills issued on and after a future date specified in the order. This estab-

lished procedure has been ignored in certain recent cases, and retroactive rate reductions or their equivalent in rebates have been ordered or made the subject of hearings.

PUBLIC utilities, like other corporations, are subject to excess profits taxes as well as the normal and surtax provisions of the Federal laws. "Excess profits" have a specific definition under which they may differ substantially from the distributable income as shown by company books, kept in accordance with regulatory requirements, less a fair return similarly determined. There are various reasons for such differences. Aside from sundry exclusions from operating expenses in determining taxable income and the effects of abnormal war-time growth, the capital structure is of particular significance. The permissible deduction of debt charges invites the carrying of a large debt load with correspondingly reduced equity capital, contrary to the policy of other Federal agencies under which debt limitations are urged or required. The result is that utilities without debt are subject to a handicap that may be severe.

This may be illustrated by two companies having the same total assets and the same distributable income, this having been found reasonable as measured by regulatory standards. If one of the companies has a substantial debt it may escape excess profits taxes; the other, without debt, may pay heavy taxes of this class and be popularly although improperly regarded as unduly profitable and subject to rate reductions, at least in the future. The over-all effect of such circumstances is that there is no direct or logical relation between

## RETROACTIVE REGULATION

"excess profits" and the standard utility fair return. The disclosure of an excess profits tax liability is no indication that rates are excessive.

IN spite of this situation demands are being made for rate adjustments in cases where excess profits have been reported. Outstanding among such cases is that of the city of Detroit which appealed to the Michigan Public Utilities Commission to reduce the rates of Detroit Edison Company by more than \$6,000,000 because past earnings have resulted in "excess profits" of that order. The argument in such cases is that Uncle Sam would take 80 per cent of such profits and that if the company would make retroactive reductions in rates to the extent of the full amount before the close of the tax year it would itself lose only the small remainder of 20 per cent and the customers would get the benefit of the full 100 per cent.

It seems to be assumed that such diversion of tax revenue from Uncle Sam to customers' pockets is a smart trick if they can get away with it. The ultimate effect of such procedure has apparently not been carefully considered. Suppose that all excess profits of public utilities, and perhaps other industries, were evaded through retroactive rate or billing adjustments such as Detroit proposed. If the purpose of our Congress is to raise a certain minimum amount

through various possible sources of revenue, the failure of some one source would require increases from other sources, perhaps with widely different incidence. The final result might be that the \$6,000,000 which Detroit customers sought to save in their electric bills would be made up by taxpayers in other parts of the country. We are accustomed to such subsidies in the case of certain government-operated projects but they are uncommon in other fields.

AFTER careful consideration the Michigan commission has decided that it has no right to exclude excess profits taxes from the cost of service on which rates are based, this being the procedure proposed to secure the desired rate reduction. The commission found that "all taxes are an operating charge and they will be so considered in determining the income of the company in this case." This is in contrast to some other commission decisions which have restricted allowable taxes to prewar levels. The Detroit order was later modified to allow for retroactive rate reductions to the extent of any curtailment of Federal taxes.

The commission went even further in approving the setting up of a reserve for "postwar adjustments," anticipating higher postwar costs when customers may be less able than now to



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meet increases. This is retroactive regulation in reverse, in fact, anticipatory regulation. The present inability of utilities to secure the material necessary to keep their properties in normal repair, which deficiency must some time be made up, makes such a reserve highly desirable as an offset to present enforced curtailment in repair costs.

**I**NCIDENTALLY, the intervention in the Detroit Case by OPA, although rate increases were not involved, was unsuccessful, as it has been in other recent cases, including Washington Gas Light Co., decided July 26, 1943, by the court of appeals of the District of Columbia<sup>1</sup> which held that neither the Emergency Price Control Act nor the Economic Stabilization Act, both passed in 1942, gave OPA any rate regulatory powers, the latter act authorizing only the presentation of evidence of inflationary effects of rate increases. In the Washington Gas Case this was estimated at 37/100 of one per cent.

Other cases have had different treatment, including that of Arkansas Power & Light Company<sup>2</sup> in which the Arkansas utilities department made a retroactive rate reduction amounting to \$625,000 and claimed the right, supported by certain precedents, to make such reductions applicable to the period within which formal investigation of rates was in progress. This particular case had been under study for several years and previous partial rate reductions had been made. There was no specific reference to excess profits but war-time prosperity of the company and in the area served was

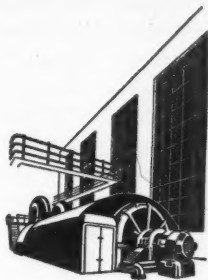
a specified factor in the effort to prevent undue profits by retroactive adjustments.

**W**HETHER or not such action would be appropriate under normal economic conditions has not entered into the current discussions, but it would seem to be inconsistent with the intent of the regulatory statutes to which reference has been made herein. At least one state commission (Wisconsin) has disclaimed authority to make retroactive rate changes. If rate adjustments could be made retroactive from the time of filing formal complaint much confusion and uncertainty would result, particularly when the case is long drawn out or carried to the courts as occasionally happens. It would then be impossible to issue definite financial statements or declare dividends with assurance until the matter is finally settled. In one recent case the elapsed time between initiation of the case and its final settlement was more than three years and the amount at issue for each year was one-third of the total revenues.

Such situations are not unlike those under the renegotiation provisions of industrial war contracts, involving very large sums of money and similar proportions of contract revenues. The resulting uncertainties have forced some war contractors to delay their annual reports because the tentative financial statements which might be included therein would have little meaning. In the absence of such reports it has also been necessary under SEC regulations to postpone annual meetings. It is not clear that public utility war contracts for standard service at published rates, based on well-known costs, should be

<sup>1</sup> 50 PUR(NS) —.

<sup>2</sup> (1942) 46 PUR(NS) 226.



### Public Utilities Subject to Excess Profits Taxes

**"P**UBLIC utilities, like other corporations, are subject to excess profits taxes as well as the normal and surtax provisions of the Federal laws. 'Excess profits' have a specific definition under which they may differ substantially from the distributable income as shown by company books, kept in accordance with regulatory requirements, less a fair return similarly determined."

subject to renegotiation or other argument.

**A**NOTHER angle to retroactive rate adjustments also needs consideration. Needed adjustments are not always downward. A company may make formal application for an increase the granting of which may be delayed for a long time. It is a poor rule that does not work both ways but the collection of retroactive deficiencies from many customers would not be simple or painless. In certain recent cases the commissions, foreseeing less profitable future years, have decided that temporary rebates to offset war-time profits were preferable to rate reductions which might later need to be canceled. Such simple procedure, without direct retroactive effect, should have the approval of the utilities affected.

The views of Federal regulatory

agencies in the matter of excess profits have not been uniform. Federal Power Commission has held<sup>3</sup> that abnormal war taxes should not be included in the cost of service to be covered by rates, thus bringing about the result sought in the Detroit Case but without its retroactive feature. On the other hand, the Civil Aeronautics Board has ruled, like the Michigan commission in the Detroit Case, that air-line revenues should be sufficient to cover all taxes that governments may impose, thus requiring their patrons to assume full rather than partial tax obligations. This ruling recognizes the need of sufficient distributable income to maintain the credit of a rapidly expanding industry.

It is to be expected that cases of the kind considered above will be of

<sup>3</sup> *Detroit v. Panhandle Eastern Pipe Line Co.* (1942) 45 PUR(NS) 203.

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only temporary significance, disappearing when taxes on excess profits are no longer necessary. Another retroactive proposal, now having close scrutiny, shows clear evidence of an intention or at least hope that it may become a permanent part of our regulatory machinery. It involves what is commonly referred to as "reserve requirement," a mathematical measure of existing depreciation. It was discussed by the author in an earlier FORTNIGHTLY article<sup>4</sup> before the program had assumed its present, more formidable significance.

In the above article the "reserve requirement" was defined as "the reserve that would have been created during the existence of surviving property if present estimates or guesses as to useful life had been appropriate for and applied uniformly in all the intervening years on the straight-line basis."

It is proposed that future rate bases shall be original cost, perhaps defined as the cost to the person first devoting the property to public service, less this "reserve requirement" computed as described in the above quotation. Not only are existing reserves with their background ignored, but it is also proposed that they be adjusted to conform to the reserve requirement by transfers from surplus or, if surplus is inadequate, a restatement of capital. The principal sponsor of this program is the Federal Power Commission, but a few of the state commissions have shown some interest in it. It has also been adopted by some appraisal engineers who have sought to establish the lowest possible values.

It is obvious that any such measure of existing depreciation is radically different from the reserves actually accumulated by the utilities. A brief review of the history of these reserves will be illuminating. Prior to the Knoxville Water Co. Case<sup>5</sup> there had been no formal approval by the Supreme Court of advance provisions for depreciation; in fact they had been rejected in several cases. Until 1922 electric and gas companies, the field in which FPC now operates, had no standardized methods of accounting. From 1922 to 1935 uniform systems, recommended by the national association of the commissioners (NARUC) and adopted by most of the states, were in effect. They provided for retirement reserves through which to write off the cost of property when it was abandoned. No specific procedure or uniformity was contemplated and "depreciation" was not mentioned. This plan was similar to that followed, in part at least, by progressive utilities in their earlier accounting.

IN 1935 Federal Power Commission and many of the state commissions agreed upon new and much more refined accounting systems for electric, gas, and other utilities in which uniform and more liberal provisions for depreciation were prescribed but without specific method or formula. Committees representing the commissions and the utilities have been engaged, so far unsuccessfully, in trying to develop some workable and practical plan under which these accounting requirements can be met. The NARUC Depreciation Committee is scheduled to present a further report at the 1943

<sup>4</sup> "A New Depreciation Fallacy," Dec. 3, 1942, p. 761.

SEPT. 16, 1943

<sup>5</sup> (1909) 212 US 1, 53 L. ed 371.



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convention of the association and is expected to recommend straight-line accruals and corresponding reserves retroactively computed. Such a program has not been approved or favored by the utilities. Since 1935 the utilities, recognizing the demand for more liberal provisions for depreciation, have increased their accruals by more than 15 per cent and their accumulated reserves by more than 50 per cent.

Neither the 1935 systems of accounts nor any preceding systems contained retroactive provisions of significance other than the analysis of fixed capital for the purpose of segregating "original" cost from other items therein. In itself this procedure was only a breakdown of existing entries although it may contemplate the writing off or future amortization of such other items. However, the Supreme Court has held that "assets of continuing value" may not thus be eliminated from fair value by such retroactive accounting processes.<sup>6</sup> In the light of the above, the retroactive reserve requirement program appears to lack any authoritative support.

**ALTHOUGH** the promotion of this unauthorized program is not wholly

<sup>6</sup> *American Teleph. & Teleg. Co. v. United States* (1936) 299 US 232, 16 PUR(NS) 225.

new or recent, the earlier cases in which it was embodied by FPC attracted comparatively little attention, largely because the properties involved were of recent origin, original costs were not radically different from present costs, the reserves, by whatever method accumulated, were relatively small, or the reserves were obviously out of line with recognized requirements. Among these cases were *Re Interstate Power Co.*,<sup>7</sup> *Re Chicago Dist. Electric Generating Corp.*,<sup>8</sup> and *Re Canadian River Gas Co.*<sup>9</sup> In certain other cases, including *Los Angeles v. Nevada-California Electric Corp.*,<sup>10</sup> an undepreciated value was accepted because reserves were being accumulated on a sinking-fund basis in accordance with state commission requirements.

The full significance of the reserve requirement theory was first clearly appreciated in the *Hope Natural Gas Co. Case*,<sup>11</sup> decided May 26, 1942. This company had been engaged for more than forty years in gathering and selling natural gas at wholesale in interstate commerce, clearly within the jurisdiction of FPC. Aside from certain drastic reductions from actual in-

<sup>7</sup> (1939) 32 PUR(NS) 1.

<sup>8</sup> (1941) 39 PUR(NS) 263.

<sup>9</sup> (1942) 43 PUR(NS) 205.

<sup>10</sup> (1940) 32 PUR(NS) 193.

<sup>11</sup> 44 PUR(NS) 1.

**I** "IN 1935 the Federal Power Commission and many of the state commissions agreed upon new and much more refined accounting systems for electric, gas, and other utilities in which uniform and more liberal provisions for depreciation were prescribed but without specific method or formula. Committees representing the commissions and the utilities have been engaged, so far unsuccessfully, in trying to develop some workable and practical plan under which these accounting requirements can be met."

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vestment accounts, the important feature of the commission's decision was the deduction of more than 40 per cent for accrued depreciation by mathematical straight-line, age-life computations. The fact that the remaining value so found for certain items having years of expected further usefulness was less than their normal salvage value did not seem to disturb the commission, and the company's experience over the many years of its history in providing for known causes of depreciation and unforeseen contingencies in the light of changing physical and economic conditions was given scant attention. The depreciated rate base assigned in this case was less than one-half of the fair value claimed by the company.

THE appeal from the commission's decision in this case to the United States Circuit Court of Appeals led to a prompt reversal on several grounds including the method of determining depreciation.<sup>12</sup> The court's opinion includes the following comments: "We think, however, that the commission may not close its eyes to the actual present condition of the property in determining present value and compute depreciation on the basis of mere formulas, as it has done in this case." It further referred to the commission's procedure as "absurd and inequitable." As to the more logical procedure which the courts have consistently approved, the court quoted with approval the following statements: "But it would be judgment based upon actual inspection rather than upon mere theoretical calculations without regard to the actualities of the property." . . . "Each [de-

duction for depreciation] must be based upon facts. Neither can be taken out of the air nor based upon hypothetical or theoretical calculations and analyses."

This reversal, dated February 16, 1943, has been appealed to the Supreme Court by the commission but not yet argued. There is reason to expect that the consistent line of decisions of this court, going back to the Indianapolis Water Case<sup>13</sup> on which the circuit court findings were based, will not be disregarded.

INCIDENTALLY, the circuit court in this case revived the doctrine, first laid down by the Supreme Court in the United Railways Case,<sup>14</sup> that annual depreciation should be based on fair value of the property rather than its cost. This doctrine has had little subsequent support but has not yet been definitely reversed, although it is inconsistent with all standardized accounting practices. Should it be affirmed and its substitution for present methods be required, the resulting confusion would be comparable with that involved in the reserve requirement theory except that it is improbable that retroactive accounting would be required.

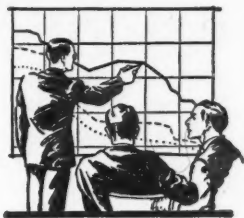
That retroactive application of novel theories is opposed by the courts is further indicated in this Hope decision. In its discussion of the rate base the court points out that, while the fair value rule is still the law of the land, investment may still be used "if such basis has been established by legislative authority prior to the dedication of the property to public use." (Italics supplied.) Such prior authority was set up

<sup>12</sup> (1943) 134 F(2d) 287, 47 PUR(NS) 129, 151, 153.

SEPT. 16, 1943

<sup>13</sup> 272 US 400, PUR 1927A 15.

<sup>14</sup> 280 US 234, PUR 1930A 225.



### Consistency in Accounting Practices

**"S**OME of the commissions, particularly FPC, have repeatedly stressed in their decisions the need of consistency in accounting practices and rate cases between annual and accrued depreciation. They complain that existing reserves or engineering estimates of existing depreciation, particularly the latter, when used as a deduction in determining fair value are far less than are justified by the claims for annual depreciation."

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in the Federal Water Power Act of 1920 and all licensees operating under that act knew in advance of these requirements and have had no occasion to complain about them although they have questioned FPC interpretations of the meaning and scope of the language "actual legitimate original cost." Complaints are, however, in order when the rules of the game are changed while the game is in progress. The extended discussion of the fair value rule in this case, with its many citations of Supreme Court findings, is impressive and concludes with the statement that with a property as old as Hope, with many and radical changes in prices, the use of investment is "arbitrary and unreasonable."

**A**SIDE from the legal aspects in this and other cases of such a concept of depreciation, its effect upon the financial structure and credit of the

companies involved would be disastrous, as may be the intention of some of its promoters. The reserves created by a mature property under the straight-line method would in due time amount to more than 30 per cent of total investment. Those of telephone companies in the Bell system, which adopted this plan many years ago, are now approaching this percentage. The electric power industry now has actual reserves rising above 10 per cent, created over the years in accordance with the prevailing accounting requirements. Whether or not such reserves should be deducted in determining an appropriate rate base depends upon the method of their creation. If the straight-line method of accrual has been consistently used, such deduction is logical. If, however, the accruals have been not more than those required for a sinking fund, and most cases have been of that character although not fol-

## PUBLIC UTILITIES FORTNIGHTLY

lowing that method, the deduction may be questioned.

It appears that a gap of something like 20 per cent of investment exists between what the industry has done and what reserve requirement proponents say it should have done. That 20 per cent would be wiped out under a theory that was not recognized during more than 75 per cent of the life of existing electric power property.

**I**N the earlier FORTNIGHTLY article (*supra*) the author pointed out that in setting up original cost as defined in the 1935 systems of accounts the commissions have generally insisted that original entries in fixed capital covering property acquisitions as and when made must be controlling although in many cases different procedure would now be employed. The inconsistency of the reserve requirement theory in rejecting original accounting procedure and substituting radically different present methods is obvious. Methods that are wrong in one case are also wrong in a parallel case.

Some of the commissions, particularly FPC, have repeatedly stressed in their decisions the need of consistency in accounting practices and rate cases between annual and accrued depreciation. They complain that existing reserves or engineering estimates of existing depreciation, particularly the latter, when used as a deduction in determining fair value are far less than are justified by the claims for annual depreciation.<sup>15</sup> Such complaints, with their charges of a "double standard," have undoubtedly been justified in some cases but it must be remembered that the

rules of the game have been changed in recent years. Existing reserves have been accumulated over the years to take care of the retirement liability as then visualized rather than under the present theory of uniformly accumulated loss in service value. With the change in the rules the annual charges for depreciation have been substantially increased. Although so far without a clearly established basis for this increase in annual charges, the assumption in rate cases has naturally been that a straight-line annuity was appropriate. Existing reserves are of course inconsistent with such annuities and will so continue until with the passage of time or otherwise reconciliation is brought about.

**A**PPRAISALS of existing depreciation as made by engineers have also appeared inconsistent with claims for annual depreciation. While this has sometimes been due to too strict adherence to the observation method, there is the further reason that present accounting instructions limit the consideration of causes of depreciation to those "known to be in current operation," thus excluding casualties and other causes of many actual retirements for which reserves should be provided. These are but illustrations of the uncertainties surrounding the present depreciation situation, created largely by the recent changes in the rules.

Reviewing briefly the foregoing, we find that retroactive rate adjustment because of alleged excess profits is not finding favor with the commissions and may be only a temporary phenomenon. Whether or not adjustments antedating commission orders, such as have

<sup>15</sup> See *Re Interstate Nat. Gas Co.* (Fed PC 1943) 48 PUR(NS) 267, 275.

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been made in a few special cases, are equitable as well as legal should be the subject of critical scrutiny. Retroactive depreciation accounting under the reserve requirement theory, with the inconsistencies, confusion, and losses outlined herein, has so far lacked approval of the courts. In the event that the circuit court decision in the Hope Case is affirmed the utilities will still be confronted with problems relating to depreciation accounting and any readjustment of reserves that should be made in the future. Even if full straight-line reserves should be found appropriate, the method now being proposed has at least one serious defect.

As has already been pointed out, *present* estimates of useful life are applied retroactively in all the years during which surviving property has been in service. Those who have made use of such estimates know that they are subject to frequent changes because of prospective business growth or lack of it, availability of new forms or types of equipment, added experience with the efficiency and reliability of the property elements, and sundry other

factors. It is obvious that in many if not all of the past years, the estimates then made of useful life would differ, perhaps radically, from those made today. It follows that reserves so created would not agree with the proposed reserve requirements. It is also obvious that it is now impossible to recreate the views about useful life that we or our predecessors had in the early years of service of presently surviving property. The problem of setting up an accurate retroactive reserve is, therefore, impossible of solution, mathematically or otherwise. Even if such a reserve could be computed, its use as a measure of existing depreciation would not be consistent with the Supreme Court ruling in the Lindheimer Case.<sup>16</sup>

If some program of augmented reserves is found to be essential or expedient it should embody a provision that the utilities be given a reasonable opportunity, necessarily a period of years, to readjust themselves to the new and more rigid concepts of the behavior of depreciation even though such concepts lack conformity with practical experience.

<sup>16</sup> (1934) 292 US 151, 3 PUR(NS) 337.

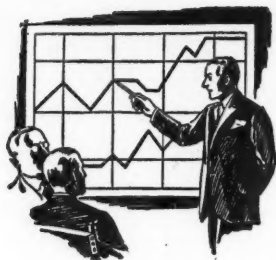
## Animal Units, Point Values, and Kilowatts

IF the various rationing programs are getting too complicated for the average city dweller, think of the mathematics now expected by the Agriculture Department from farmers in need of electricity to run their equipment.

The plan provides allotment of electric service on the basis of the farmer's ability to contribute to the war effort through food production, measured in terms of animal units.

The basic animal unit is one milk cow. Equivalent are, for example, 30 breeding ewes, or 3 brood sows, or 75 laying hens, or 600 broiler chickens. In order to qualify for any service connection, the farmer must have or produce at least 10 animal units. Thus, a poultry farmer with 6,000 broiler chickens and electric equipment on hand would qualify for 1,000 feet of connection.





## The Incremental Rate Plan

By and large, says the author, incremental cost, plus a legitimate or desirable profit, gives the rock bottom figure at which electric energy can or should ever be sold.

By ALFRED V. ROBERTS

**I**t is winter. A soft, white mantle covers the earth. We make a snowball and start it rolling. With every turn it gets bigger and bigger. Finally, all efforts to roll it further fail. Then we begin carving out our snowman!

This is pretty much the picture of the electric utility rate structure. Rolling down the past four decades it, too, has gathered snow. Little, if any, has it lost. Today—big, cumbersome, immense—will it stand another roll?

We'll try. Then later, perhaps, we can trim the colossus. Cut away the crude, unshapely edges. Shave off the rough, overlapping folds. Sculpture, perhaps, a right smart snowman?

But, first for the roll!

The *incremental rate plan*, as the name suggests, is related to the objective rate plan. Just as Man is believed to have sprung from a common ancestry with the ape, so, too, the incremental rate plan and the objective rate

plan likewise spring from a common promotional ancestry. Indeed, the parallel might be carried further: Just as Man is acknowledged to be superior to the ape, so, too, the incremental rate plan is believed to be indisputably superior to the objective rate plan.

This, perhaps, is a hard simile? Unlike the monkey, to which it has been here likened, the objective rate plan definitely has great merit. It has been adopted and used by many utilities to great advantage. It is promotional. It has, however, certain well-defined disadvantages.

**T**HE objective rate plan consists of two rates or schedules: the present or "immediate" rate and the "objective" rate. This duality in schedules is confusing to the layman—and the consumer is essentially a layman. Again, the transition from the immediate to the objective rate involves a certain number of *free* hours. This interme-

## THE INCREMENTAL RATE PLAN

diante, Santa Claus factor precludes making the rates in the objective schedule too low. One must, as it were, bite off and digest a little at a time. Otherwise, the large number of free hours resulting might occasion financial embarrassment to the company. The basic merit of the objective rate plan is that it offers—to those who understand it—the inducement of a lower rate for all energy consumed in excess of their base bill for the same month in the preceding year.

The incremental rate plan retains all of the promotional principles and attractions of the objective rate plan. In addition, it has the three following advantages over its blood cousin:

1. There are no free hours. Charges, designed to produce a predetermined, net income per kilowatt hour, are made against *all* additional consumption. This secures the company's financial position.
2. It is more promotional, because benefits to the consumer are greater.
3. It is simpler and more readily understood.

**U**NDER the incremental rate plan there is only one schedule—the present or immediate schedule. If a consumer's kilowatt-hour consumption exceeds his base consumption, his total bill is his base bill\* plus a predetermined charge per kilowatt hour for all additional energy taken. The predetermined kilowatt-hour charge for this additional consumption is based on *incremental cost*.

By and large, incremental cost plus a legitimate or desirable profit gives the rock-bottom figure at which electric energy can or should ever be sold

by a company. When an established electric utility company is meeting all operating expenses and, in addition, earning an adequate return upon its rate base, there seems no reason why the charge for any additional energy should be in excess of such rock-bottom figure.

This article is primarily concerned with the application, rather than the determination, of incremental cost. Nevertheless, since incremental cost is the primary monetary quantity involved, a brief analysis of its elusive nature is believed to be here in order.

Incremental cost can be likened to the greasy pig of country-fair fame: a simple, easy prospect, but hard to catch. Yet, it *can* be caught; it has been done. This, for those who would essay to capture and hold the slippery quarry, is an encouraging thought.

**M**UCH has been written upon the subject of incremental cost by many eminent authors. Unhappily, most if not all of these writings are impregnated with an element of evasion. This evasion is the grease. In consequence, just as one thinks he has the pig secured, there comes a squeal and a kick—and he's gone!

Exasperating!

Basically, incremental cost is believed to break down into four types, as follows:

1. Incremental cost incurred through additional consumption by presently connected customers.

2. Incremental cost occasioned by the addition of new customers residing adjacent to the existing distribution system.

3. Incremental cost occasioned by the addition of new customers residing outside and beyond the presently existing distribution grid.

\* His bill for the same month of the preceding year.



### Rock-bottom Charge for Electric Energy

*"... incremental cost plus a legitimate or desirable profit gives the rock-bottom figure at which electric energy can or should ever be sold by a company. When an established electric utility company is meeting all operating expenses and, in addition, earning an adequate return upon its rate base, there seems no reason why the charge for any additional energy should be in excess of such rock-bottom figure."*

4. Incremental cost incurred by additional consumption derived from existing consumers through a new and strictly off-peak service—such, for instance, as an automatic, time-controlled, water-heating service.

**E**ACH of these four basic types of incremental costs has a different value. It is essential that we first know to which type the incremental cost we have under consideration belongs, before we can possibly assess against it a value. Furthermore, the value for each of these types is, again, modified according to the service supplied. Thus, for instance, for residential service the incremental costs under types (2) and (3) would have different values than the incremental costs, under these two types, for general power service.

Incremental cost is not easy of determination. Yet, it *can* be determined. The pig *can* be caught!

Today, apart from the functioning of the objective rate plan, where used,

reductions are uniformly substantial and come at relatively long intervals. There are two reasons for this:

1. Companies have a way of either hiding or absorbing small amounts.
2. Under the operation of normal reduction machinery it is impracticable to put into effect small reductions.

Under the objective rate plan—ininitely more so under the incremental rate plan—reductions are automatic and continuous. Consumption of one, single, additional kilowatt hour under the incremental rate plan automatically sets in motion the simple reduction machinery.

**H**ERE is how the incremental rate plan works. Let us assume an electric utility company with the following residential rate schedule in operation:

First 20 kw. hr. per meter per month @ 6.5¢ per kw. hr.  
Next 100 kw. hr. per meter per month @ 3.5¢ per kw. hr.

## THE INCREMENTAL RATE PLAN

All over 120 kw. hr. per meter per month  
@ 1.5¢ per kw. hr.

Minimum charge: \$1 per meter per month.

Assume, now, an average incremental cost of 9 mills per kilowatt hour for this service. Assume, further, an average net income or profit, derived by such company from all energy presently sold for all purposes, of 3.5 mills per kilowatt hour. Under the incremental rate plan the charge per kilowatt hour for all additional consumption by any residential consumer, over and above his base consumption, would be 1.25 cents (incremental cost .009, plus profit .0035, equals 1.25 cents).

Under this plan there are no free hours. Any consumer who increases his consumption over that for the same month of the preceding year, immediately receives the full benefit of the minimum kilowatt-hour charge for such additional energy consumed. The promotional value is a *maximum*. Its benefits accrue to both the consumer and to the company.

New customers would, of course, be billed under the existing schedule for the first twelve months of service. This would establish for them the necessary base-bill period.

**T**HE charge of discrimination brought, by some, against the ob-

jective rate plan, applies equally to the incremental rate plan. Under this criticism it is pointed out that the lower charge to the consumer who increases his consumption causes discrimination against the consumer who does not increase his usage. For instance, customer "A" has a base use of 60 kilowatt hours for the month of June, 1942. This, in June, 1943, he increases to 100 kilowatt hours. Customer "B" has a base consumption of 100 kilowatt hours and fails to increase it. Under such circumstances these consumers would, for the same consumption, receive different bills as shown below. The bills are computed by the residential schedule and the incremental cost of our preceding example.

Some 28 state commissions have endorsed the objective rate plan. The approval of only one has been denied. Argue the ayes: The advantages outweigh the discrimination.

**T**HE Alabama Public Service Commission has defended the objective rate plan from the charge of discrimination in the following language:

"It may be charged that under this plan some discrimination will result in favor of the present small user. If there is any basis for such view, our answer is that such condition will be temporary, and, when all the facts and cir-



Customer	June, 1942		June, 1943	
	Consumption	Bill	Consumption	Bill
"A"	60 kw.hr.	\$2.70*	100 kw.hr.	\$3.20°
"B"	100 kw.hr.	\$4.10†	100 kw.hr.	\$4.10†

\* 20 kw. hr. @ 6.5¢, plus 40 @ 3.5¢ = \$2.70

° Base bill \$2.70, plus 40 @ 1.25¢ = \$3.20

† 20 kw. hr. @ 6.5¢, plus 80 @ 3.5¢ = \$4.10

## PUBLIC UTILITIES FORTNIGHTLY

cumstances are considered, that the discrimination, if it exists, will not constitute an unjust discrimination.

"There are few, if any, consumers who cannot take advantage of the plan and use increased quantities at a very low cost with great added convenience and profit. *It is also clear that the only way in which the larger users may obtain lower rates under existing conditions is by increased use by the great number of small users resulting in a greater number of sales by respondent.*"

The italics are by the writer. This statement has been italicized because it is believed it expresses a fundamental truth which should be the guiding principle in all rate design.

Bauer and Gold, in their text, "The Electric Power Industry," on page 84, state in part:

"As load building progresses, reduc-

tions should be applied more extensively to the higher-rate brackets; the ultimate goal might be a single schedule of low rates for all purposes."

It is believed that such a highly promotional schedule as the *incremental rate plan*, outlined herein, would greatly hasten the day when Bauer and Gold's ultimate and much-to-be-desired goal could be brought within the realm of realization.

Such ultimate achievement would, of course, entail the trimming and modeling of our giant snowball into a slap-up, neat snow man. This calls for a specialist; a sculptor with a sound knowledge of rate-structure anatomy; a keen eye for line and proportion.

But, for the present, let us be content just to give our snowball a final shove.

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### REA Co-ops and the Labor Problem

"LABOR problems constitute a peculiar aspect of this program. Farm coöperatives are unfamiliar with labor problems on the whole. The National Labor Relations Act and the Fair Labor Standards Act have created problems. The unionization of these coöperatives has called for types of union agreements that are adapted to this enterprise.

"They look to us; they do not have to, but they do, and we try to make available to them our experience and our knowledge of the situation all over the country, which has many aspects that are uniform to the program generally.

"What happens in my division happens in all REA divisions. These letters come in. These inquiries come in at pretty nearly the same rate as a year or two ago, with about 10 or 15 per cent decrease.

"Most of what we do now in connection with assistance in operation is done at their request and their instance. How many years that will keep up, nobody knows, but right now they seek our assistance—I think naturally so. It is a new program. Farmers have not been accustomed to operating electric systems; and as long as they seek our assistance, we try to give it."

—V. D. NICHOLSON,

Deputy Administrator, Rural Electrification Administration.





## Refunds Rather Than Rate Cuts During the War

The policy of the Arkansas Department of Public Utilities in dealing with excess earnings works well, says the author.

By JAMES D. WALKER, Jr.

IT was evident to those connected with the department of public utilities of the state of Arkansas during the year of 1942 that the department should inaugurate some program whereby the utility customers within the state would be protected against any unreasonably high earnings by any utility company operating within the state during the period of the war emergency. It was decided that a program should be established whereby the refund of any excess earnings during the emergency period by any utility company would be required rather than a downward revision of that company's rates.

Those charged with administering the department's affairs reached this decision after careful consideration of the department's authority to require refunds of utility earnings determined to be excessive, and after a review of past experiences in matters of that nature.

Soon after the creation of the department it entered into a program of establishing a sliding-scale plan of automatic rate adjustment whereby earnings in excess of certain stipulated amounts were to be refunded to customers served by utility companies for which a rate base and a rate of return had been determined. Three utility companies in the state are now operating under this automatic rate adjustment plan. The plans under which each of these companies operates are almost uniform as to their provisions and are designed in such manner as to encourage the companies to exercise economy in their operations. Each company is required to file with the department, soon after the close of its business year, a report of its operations during the previous year prepared according to the provisions of its automatic rate adjustment plan. These reports are examined as to their correctness and are periodically compared with the books and

## PUBLIC UTILITIES FORTNIGHTLY

records of the reporting company. Any refundable amount is determined and the department then issues the necessary order directing the company to refund that amount to certain of its customers as determined by the department. This plan has been operated successfully during the past several years. Although in most instances the amounts refunded to individual customers have been comparatively small, in no instance amounting to more than one month's bill, the refund has a decidedly favorable effect upon the company's public relations in that it assures the customer that there is an effort by the company and by the department to keep the cost of his utility service at a minimum.

**T**HE action of the department in requiring the Arkansas Power & Light Company to refund to certain of its 1942 customers has received considerable publicity and caused much comment. The department has received numerous requests for information regarding the procedure followed in ordering this refund. The procedure followed by the department in this instance is briefly outlined below:

The Arkansas Power & Light Company is primarily an electric utility. This company operates in approximately 450 cities, towns, and communities within the state of Arkansas, serving more than 98,000 electric customers.

On July 2, 1937, the department initiated, on its own motion, a system-wide investigation of the rates, rules, practices, and procedures of the company's electric operations. The department directed the company to file a complete inventory and appraisal of all

the property used and useful in supplying electric service and directed its own technical staff immediately to begin and to continue as rapidly as possible to a completion of the investigation.

Since that date and during the investigation, the department, from time to time and when developed facts justified such action, ordered and directed the company to reduce its electric rates by amounts totaling approximately \$1,250,000, the last of which reduction was put into effect during the early part of 1942.

**A**T the time the department ordered the 1942 reduction to be put into effect, it realized that the company would benefit by a wave of prosperity in the territory served by it. However, at that time it was unable to estimate with any degree of accuracy the extent of such prosperity or the effect it might have upon the company's revenue and expenses. Especially was the department unable to estimate the results with the degree of certainty necessary to justify or sustain a further reduction in the company's electric rates.

With these facts and conditions in mind, the department kept a close and continuous check of the company's electric revenue and expenses during the progress of the year of 1942. During November, 1942, the department, with ten months' actual experience of the company's electric operations before it, arrived at the conclusion that the company, during the year of 1942, would receive electric revenues of approximately \$625,000 in excess of that which the department believed to be fair and reasonable.

On November 27, 1942, the department under the docket initiated on



### Adjustment of Rates for Service

**“U**NDER the act creating this department [department of public utilities], a utility operating in Arkansas has the authority, with the approval of the department, to enter into an agreement with the department for a fixed period for a sliding-scale or automatic adjustment of charges for service, and the department has the power, upon its own initiative, to fix and put into effect a plan for the adjustment of rates.”

July 2, 1937, ordered the company immediately to segregate and separate from its 1942 electric revenues the sum of \$625,000 and to place this sum in a bank as a special account to be designated “Arkansas Power & Light Company 1942 Refund” and to be held there in trust for the sole purpose of making refunds to its 1942 electric customers as directed. The department then ordered the company to refund to certain of its 1942 electric customers by check in the proportion that the total amount billed each customer during 1942 was related to the total amount to be refunded.

**T**HE company complied with that portion of the department’s order wherein it was required to separate from its 1942 electric revenues and place in a special fund the sum of \$625,000. However, it appealed the order to the Pulaski County Circuit Court, the

court to which appeals from orders of the department are first carried, on the grounds that the department lacked authority to require a refund of earnings, a part of which were retroactive for a period of ten months. The department’s actions were sustained by the Pulaski County Circuit Court during December, 1942, and early in 1943 the company complied with all the provisions of the department’s order.

In March, 1943, the department made the following statements in an order concerning the adjusting for the period of the war emergency the rates and charges for service of the public utilities operating in Arkansas:

The consumers of most of the utilities operating in Arkansas are now enjoying, and probably will continue to enjoy during the period of the emergency, an era of prosperity because of the location of and their ability to secure employment in war industries

## PUBLIC UTILITIES FORTNIGHTLY

and their allied activities, and that by reason of this situation, many of the utilities operating in the state may in 1943 and throughout the emergency receive revenues which, in the judgment of the department, would exceed a reasonable and fair return upon the property used and useful in rendering public service in the state.

**U**NDER the act creating this department, a utility operating in Arkansas has the authority, with the approval of the department, to enter into an agreement with the department for a fixed period for a sliding-scale or automatic adjustment of charges for service, and the department has the power, upon its own initiative, to fix and put into effect a plan for the adjustment of rates.

Because of the unsettled situation with respect to taxes and operating expenses due to the emergency, it will be unwise for the department now to reduce utility rates and the fairest way of protecting the public from excessive charges is to provide for an automatic adjustment thereof, whereby the utility may refund any excess earnings to its customers after it and the department are able to determine with reasonable accuracy what the excess earnings may be for any particular period.

At that time the following order was issued:

"A. That for the period of the emergency the policy of the department will be to promulgate and put into effect, or to approve, some fair and just plan for the automatic adjustment of utility rates whereby any earnings of a utility from its operations in Arkansas in excess of a reasonable re-

turn may be promptly refunded to its customers, rather than to undertake to estimate the excess earnings in advance of their accrual and to reduce rates accordingly.

"B. That the legal, accounting, and engineering staffs of the department begin immediately and pursue to a conclusion the formulation of such a plan through conferences with the several utilities operating in Arkansas and from time to time report their progress to the department to the end that a just and fair plan may be approved at as early a date as possible.

"C. That since some of the utilities operating in Arkansas also operate in adjoining states, the regulatory commissions of those states should be contacted, and the staff of this department is directed to contact them, to the end that their coöperation may be secured in the promulgation, adoption, and approval of a plan for the automatic adjustment of charges and refunds to customers with respect to those utilities operating in Arkansas and the adjoining states."

**T**HIS order has been served on all the utilities operating in the state of Arkansas. The technical staffs of the department have held a number of conferences with officials of utilities for the purpose of determining a plan of procedure. Representatives of the department have conferred with the members of the commission and staff of the Missouri Public Service Commission and have also conferred with the members and staff of the Oklahoma Corporation Commission. These conferences have been held for the purpose of securing the coöperation of the regulatory bodies in our neighboring states in case a utility should be doing business in more than one state.

The department has in its files considerable information regarding plant

## REFUNDS RATHER THAN RATE CUTS DURING THE WAR

values, service capacity, past experiences and current position of each utility operating in Arkansas. It also has specific knowledge as to the war industries located in the state and the utility serving such industry. It is currently advised as to the increased load of each utility and the per cent of the utility's capacity being utilized. Thus, it is able, through conferences with representatives of affected utilities, to arrive at a reasonable allowance for annual earnings of the utility, the excess of which, if any, is to be refunded to the utility's customers. It is contemplated that any estimated excess earnings be set up currently in a refund reserve, this reserve to be adjusted to the actual excess upon its determination at the close of each year.

As mentioned above, the staffs of the department are presently engaged in a series of conferences with several utility companies, some of which have been completed and are in the process of being prepared for presentation to the department.

One criticism offered by electric utilities of any plan whereby any determined excess earnings are refunded to customers is that no consideration for the refund is given by the Federal Power Commission in its compilation

of typical electric bills in the United States. The electric companies that offer this criticism say that these Federal Power Commission statistics are widely distributed and are used extensively for comparative and publicity purposes; that these statistics do not present a true picture as to electric service costs in the territory served by an electric company that refunds a part of its earnings to its customers; and that, therefore, actual harm has been done the electric utility making such refund through adverse publicity.

The department is of the opinion, however, that very little, if any, adverse publicity is received by an electric utility in the territory in which it operates from such statistics. Certainly, the effect of a refund on its customers will more than counterbalance any ill effect of an untrue comparison of its service charges with publicly financed utilities.

ANOTHER criticism of a refunding plan is the effect upon Federal income and excess profit taxes. The argument is advanced that up to approximately 80 per cent of any refund comes out of Federal taxes; that it is unpatriotic to reduce taxes in this manner since any reduction of taxes impairs the government's ability to finance the war. The department is of the opinion



"THE consumers of most of the utilities operating in Arkansas are now enjoying . . . an era of prosperity because of the location of and their ability to secure employment in war industries and their allied activities, and, by reason of this situation, many of the utilities operating in the state may in 1943 and throughout the emergency receive revenues which, in the judgment of the department, would exceed a reasonable and fair return upon the property used and useful in rendering public service in the state."



## PUBLIC UTILITIES FORTNIGHTLY

that this is a fallacious argument. A proportionate amount of any rate reduction or refund of utility profits has come from Federal taxes since the enactment of the first Federal income tax law. Using this sort of argument, it can be said that no rate reduction or refund of profits is justified because a certain portion of such reduction or refund comes from taxes and, therefore, there is no need for utility regulatory authorities, either state or Federal.

It can be said with equal force that the war must be financed; that the collection of income taxes bound up in utility service bills is an almost painless

way to collect taxes; that utility service rates should be doubled, tripled, or even quadrupled since approximately 80 per cent of such increase would be paid by the utility as income taxes. The department takes the view that the utility service-consuming public pays income taxes commensurate with its earnings; that it is entitled to receive such utility service as is available at just and reasonable rates; that it should not be burdened with additional taxes bound up in its utility service rates; and, therefore, any justified rate reduction or profit refund should be made regardless of its effect upon Federal taxes.



### Planning Our Postwar Economy

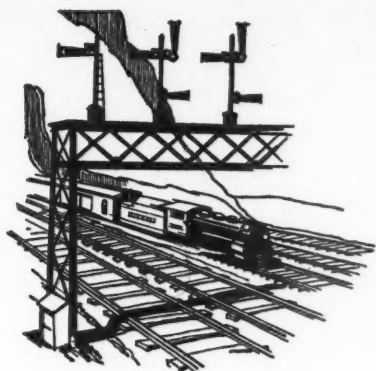
**"I**N spite of the record made by America under the free enterprise system, some people magnified its faults until molehills became mountains. Ideas of crackpots, theorists, ideologists, and starry-eyed dreamers did not seem so far-fetched.

*"The antibusiness current became stronger. Before we knew it, many of our most important governmental agencies were loaded with bureaucrats, brain trusters, dreamers, and, yes, out-and-out Communists. Governmental relations with business were of the crack-down variety. Antibusiness measures were rushed through committees and enacted by Congress, yet free enterprise did not rise to its own defense.*

*"Now, all of us need to put out our best thinking into the kind of planned economy we will need after the war—an economy that does not mean collectivism, regimentation, or submission to the rule of a government bureaucracy. Venture capital will again have to come forth unharassed by fear, if we are to have new enterprises."*

—GEORGE H. DENNISON,  
*President, National Association of  
Better Business Bureaus.*

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## Sleepy Stations Become Busy Junctions

All forms of transportation in Britain today have been brought into an integrated service running as component parts of a world-wide system under central control.

By JOHN MARCHBANK

**T**HIS is a war of transport. Next to the death-dealing weapons at the disposal of the armed forces, transport is the most vital part of their equipment. It used to be said that an army marches upon its stomach. In modern war the army moves on wheels.

Hitler's ace card is transport. His forces are switched rapidly from one theater of war to another, mainly by inland lines of communication, or by sea routes of short length and under good protection.

The transport problems of the United Nations in the actual conduct of war operations are vastly more complicated. The burdens resting upon their transport service are immeasurably

heavier than those of the Axis powers. Allied lines of communication are mostly long sea lanes lying within easy reach of U-boat and bomber bases. Unlike Germany, which can draw its supplies of food and raw materials from the countries it has pillaged, and from its own highly developed natural resources, Britain has to bring much of its food and raw materials from overseas. It has to carry, too, the supplies and equipment of the forces fighting in distant theaters of war.

It is easy to see, therefore, that an immense amount of planning needs to be done to insure that all these movements by water are fitted in, to work smoothly and efficiently with the transport facilities at either end. Such plan-

## PUBLIC UTILITIES FORTNIGHTLY

ning involves more than is commonly realized. The cargoes on incoming ships must be known in advance, and arrangements made for their unloading and clearance as speedily as possible. Shipments overseas have to be planned with a full knowledge of the limitations of berths and cranes in the port of destination. The movement of heavy equipment must be routed with detailed and exact knowledge of the strength of bridges and the dimensions of tunnels.

**T**HE requirements of such planning have brought all forms of transport in Britain today into an integrated service running as component parts of a world-wide system under central control. How extensive that system is can be measured by the fact that it covers 20,000 route miles of railways, 180,000 miles of road, and 2,000 miles of inland waterways in this small island, linked up with shipping representatives in all the principal Allied and neutral ports of the world. The bus which takes workers to the munitions factory, the tradesman's van delivering bread in a suburban street, come under the same control as the tramp steamer loading manganese ore in a West African port.

Government control of Britain's railways, with their 20,000 locomotives and 1,250,000 wagons, was established as soon as the war began. Within a few months, deep-sea shipping followed, though these two forms of transport were separately regulated under government departments until the spring of 1941. On that date the Ministry of War Transport was set up with Lord Leathers as Minister, to function as the supreme authority in the field of transport organization. Canals and inland waterways came under the

Ministry's jurisdiction in mid-1942. Outside direct control only road transport now remains; and effective control over road traffic is exercised indirectly through fuel rationing and the licensing system. Much of the road traffic has had to be switched over to the railways because of the loss of 90 per cent of imported rubber which reduced the usefulness and range of road vehicles. To insure that road vehicles will still be available in emergencies the government is taking over some 25,000 trucks for long-distance work.

**B**ITAIN'S transport needs are very much greater today than in peace time. Out of a total population of working age (between the ages of fourteen and sixty-four) more than two-thirds are now in uniform or doing essential work in civil occupations. The number employed under essential work orders is now in excess of 8,000,000. Adequate transport facilities are an absolute necessity.

The importance of this factor was recently stressed by the Parliamentary Select Committee on National Expenditure. That committee went on record with the view that "road passenger transport for all classes of the community must be placed in the highest category of importance. The output of factories (said the committee) will fall, if workers and managements cannot arrive in time, and the morale of the country will be affected if the housewife cannot do her shopping or if her child cannot get to and from school. In short, transport occupies a key position not only in the production of munitions, but also in the daily life of every man, woman, and child in the country."

Passenger services by road do not,

## SLEEPY STATIONS BECOME BUSY JUNCTIONS

of course, stand by themselves. They must be linked up with the railway services. To carry the millions of civil workers and citizens to and from their daily avocation, a thousand extra trains are run every day. Moreover, new factories spring up in rural districts, served by no train or bus. For them new sections of railway track have been laid, new trains put into service, new fleets of busses organized.

**W**AR conditions have transformed almost in the twinkling of an eye quiet country stations into busy junctions. Sections of track never designed for heavy traffic have had to be doubled to cope with dispersed industries which need coal, raw materials, armament components, and whose finished prod-

ucts must be carried to their destination from the production lines.

On top of this industrial traffic there are the extensive movements of troops and equipment to cope with. Since the war began the number of special trains run has averaged upwards of 3,000 a month. In the ordinary long-distance passenger trains two-thirds of the passengers are men and women in uniform.

The problem is one of adjusting fewer means of transport to a much expanded demand. The burden grows. Sea voyages are longer by reason of the convoy system and the constant search for lanes of safety. On land the blackout slows down traffic. It reduces railway-carrying capacity by about one-quarter. Many of Britain's locomotives



BUSSES OUTSIDE A LARGE WORKS

*Planning brings all forms of Britain's transport into an integrated service.*

## PUBLIC UTILITIES FORTNIGHTLY

and much of her railway equipment have had to go overseas, though this loss has been to some extent compensated by American main-line locomotives which have come to Britain's aid. Canals are short of boatmen. Rubber and fuel shortages have reduced road freight transport to the rôle of a transport reserve.

**R**ESTRICTIVE conditions of this nature have involved the people of Britain in heavy sacrifices. Comforts and amenities of travel, normal in peace time, have largely disappeared. There has been a 30 per cent cut in passenger train services; of 700 restaurant and buffet cars which were running prewar, 630 have been taken off.

Gone too are many of the sleeping coaches. They have been sacrificed for the same object—to enable each train to carry the maximum number of passengers. The speed of travel has slowed down. Some of the finest streamlined locomotives, capable of hauling express trains at an average speed of 70 miles per hour from start to finish, are now doing 'donkey work' in pulling train loads of tanks and guns, coal, and other minerals. Long-distance road services have been suspended, and the coaches used to carry workers to and from war factories.

Transport needs have affected the housewife. Most food supplies and many other commodities are now "zoned." Markets are supplied from



### RAILWAYS IN WAR TIME

*Important in peace time, vital in war time, British railways rightly claimed to be "the lines behind the lines." To take the ever-increasing loads new tracks are continually added. New railway bridge showing old bridge.*



## SLEEPY STATIONS BECOME BUSY JUNCTIONS

the nearest factory or port. Shop delivery services have been drastically cut down. It is calculated that Britain's housewives, by carrying their shopping home themselves, instead of having it delivered by tradesmen, are saving 25,000,000 gallons of gasoline a year. By taking crackers from the nearest factory, in giving up the old range of choice, they save 12,000,000 ton-miles of transport a year by road and rail.

ONE might illustrate the impact of Britain's transport problem on many other normal amenities. There used to be 365 special trains running in a year to carry flowers to London and other great urban centers. They had to be diverted to more urgent needs. And every possible expedient to reduce the tonnage of traffic and to shorten

transport journeys has been introduced—imported beef comes in without the bone, and eggs are carried without shells.

One plan and one aim dominate the whole system. The claims of the various government departments and organizations on both shipping and inland transport are all received, examined, and sifted at a common center, where arrangements are made to meet them with the maximum economy of ships and vehicles. In the case of internal transport operations, extensive use is made of coastal shipping, which is today giving invaluable relief to the hard-pressed railways.

In these and other ways, Britain's transport is giving an example of "combined operations" on the grand scale.



### Utility Tax Problem

"FOR the first time in the 60-year history of the public utility industry, the Federal government alone in 1942 took a greater percentage out of the gross revenue received by the utilities than the utility worker earned as his share in producing the nation's electric light and power supply.

"The tax problem has been one of increasing concern to the utility industry for several years, particularly in view of the fact that utility rates have continued their downward trend while the costs of other items of living have increased. Since the outbreak of the war in Europe, and the start of our national defense program, the cost of virtually all essential commodities has edged steadily upward, but the cost of electric power, on a national average basis, has been lowered to the point where rates are currently the lowest in the history of the industry."

—THOMAS P. SWIFT,  
*Writing in The New York Times.*



## Wire and Wireless Communication

**C**HARGES of Gestapo tactics against the Federal Communications Commission are fully supported by the evidence which has been presented at hearings before the Cox congressional committee in New York. This was the opinion expressed by Eugene L. Garey, counsel for the committee, as the New York hearing was adjourned with date on August 27th.

Garey said that evidence presented "amply justifies and supports widespread accusations leveled against the commission." He said two accusations against FCC were "that it has set up a group commonly called the 'Gestapo' for the purpose of unlawfully dominating the radio industry and rendering it subservient to its will, and that the 'Gestapo,' under the guise of lawful and proper investigation, is violating the constitutional rights of individuals."

The final testimony before the congressional committee in New York had to do with letters from officials of the OWI, FCC, and Office of Censorship to a former announcer on foreign language radio station WBNX, disclaiming any ability to assist him in his efforts to return to the air after his dismissal from the station. Lido Belli, a time broker for the station, previously had testified he dismissed the announcer, Alfonso Vanacore, at the insistence of Lee Falk, radio chief of the OWI foreign division, Alan Cranston, chief of the division, and Giuseppe Facci of the Italian division.

The activities of Falk played an important part during the course of the

hearings. He had been described as having "taken on the job" of "removing unsavory personnel from foreign language stations." W. C. Alcorn, manager of radio station WBNX, testified that at Falk's insistence he had dismissed two foreign language announcers whom he had known for ten years. He said he knew of no reason why either should be taken off the air, and that he considered both men "loyal to the United States."

**I**N his closing statement, Mr. Garey said the testimony developed "a shameful picture" that adds "a sordid and black page to our American history." He previously had alluded to the story of Lido Belli, which he had branded as a "shameful" case. Mr. Garey said:

Deplorable and heart sickening as these activities of the commission and its allies in the illegal seizure and usurpation of power and governmental functions have been discovered to be, they represent but a small phase of this committee's work. The results of the investigation into other phases of the commission's activities will be made public at subsequent hearings to be held in Washington.

We know now that it can happen here because it has happened here. We have had related to us stories depicting a series of consistent acts reflecting unlawful conduct by the FCC and OWI. Constitutional rights accorded to every American have been flagrantly violated by a Gestapo, drunk with unlawful power and running amuck.

The letters which I have read into the record today indicate that the committee's labors are bearing some fruit and that the commission is evidencing an intention to sin no more, in certain respects at least. I cannot refrain from expressing the hope that

## WIRE AND WIRELESS COMMUNICATION

the reformation, belated though it is, is permanent.

Hearings were resumed in Washington on August 30th on FCC draft deferments, with Representative Louis E. Miller, Republican of Missouri, presiding. The hearings consumed several days and the committee proposed to draft its interim report, along with legislative recommendations to the House, to be presented with the reconvening of Congress on September 14th.

\* \* \* \*

CLOSER coordination between the communications division and the Office of War Utilities was recently reported in prospect. Little substantial change of policy is intended. On the contrary, J. A. Krug, chief of OWU, was reported to be well satisfied with the record made by Leighton H. Peebles and his communications division.

However, it was felt that there was need of closer working arrangements between the communications division and other utility branches of OWU. For the past six months the communications division has been left more or less on its own, with no interference from the "downtown" headquarters of OWU. The new liaison connections, if established, would merely assure more uniformity of procedure and policy control. Incidentally, the communications division's technique of making the telephone and telegraph industries responsible for the enforcement of restrictions placed upon them is making an impression on other utility divisions of OWU, notably the power division.

\* \* \* \*

THE Federal Communications Commission last month ordered a public hearing on the application of American Broadcasting System, Inc., for authority to acquire the Blue Network, Inc., from the Radio Corporation of America for \$3,000,000. Edward J. Noble, former Under Secretary of Commerce, is the only stockholder in American Broadcasting.

The commission said it decided to hold a hearing September 10th "in view of the national importance and general public interest" in the proposed sale. It added that the hearing would provide an opportunity for presentation of all material evidence and to obtain information regarding the proposed transfer.

The Congress of Industrial Organizations on August 26th petitioned the FCC for permission to intervene in the proceedings incident to the transfer of the Blue Network from the RCA to new owners, contending that organized labor had an interest because of restrictions on its use of the radio. Petition denied.

A brief filed by Lee Pressman, general counsel of the CIO, said that the effect of the code adopted by the National Association of Broadcasters with respect to controversial programs prevented labor unions from buying time on most stations and that labor had very little free time.

The CIO contended that a larger proportion of free time should be made available to labor, that there should be no blanket restrictions on the purchase of time or on the solicitation of memberships over the air, and that machinery should be established "for the relief necessary when labor organizations are not permitted to either buy or to receive free time to put their programs on the air."

\* \* \* \*

PAY raises were approved last month by the National War Labor Board for approximately 12,000 employees of the Northwestern Bell Telephone Company. The board approved an agreement between the company and the Northwestern Union of Telephone Workers, covering workers in 646 localities in 5 states and calling for increases of from \$1 to \$2 a week for nonsupervisory employees on a weekly basis, and from \$5 to \$10 per month for employees on a monthly basis.

The Northwestern Bell Telephone Company, with headquarters in Omaha, Nebraska, supplies telephone service to localities in Iowa, Minnesota, Nebraska,

## PUBLIC UTILITIES FORTNIGHTLY

ka, North Dakota, and South Dakota.

The board approved the agreement to bring the adjustments for these workers since January, 1941, up to 15 per cent, as provided in the "Little Steel" formula and to correct substandard rates. Prior to the increases, more than 3,000 of the total work force received less than 40 cents an hour.

The lowest schedule of rates for the traffic department, in which the bulk of the workers are employed, progresses from \$14 to \$19 per week after seven years and the highest schedule progresses from \$16 to \$28 after twelve years.

The board also approved an extension of night shift differentials to all the company's exchanges. These differentials vary in amount and are based on length of service.

\* \* \* \*

**A** SUDDEN labor dispute between members of the Hoosier Telephone Association of Indiana and the Indiana Bell Telephone Company was adjusted last month at a meeting of officials of both organizations before a panel of the WLB in Indianapolis.

The dispute, centering around a threat by the union to call a strike of all members employed by the Bell Company in the event a new working contract was not provided by August 10th, began last February when negotiations for the contract were opened. Panel members indicated a full report of the settlement would be made to regional WLB headquarters in Chicago.

\* \* \* \*

**A**N "escalator" clause providing for automatic increases based on the cost of living index in the contract between Press Wireless, Incorporated, and the Independent Communications Guild, an unaffiliated union, has been disapproved by the WLB as being in conflict with the board's wage stabilization policy.

The board approved other features of the agreement between the company and the union calling for changes in salary scales, lowering of the minimum salary

SEPT. 16, 1943

for senior radio operators from \$52.50 to \$47 a week, and shortening of the progression time for "printer operators" from four years to three years. These changes were approved by WLB to remove inequities between interrelated jobs.

A request by the company and the union for payment of time and one-half to any employee required to work during the period assigned as his vacation was disapproved by the board.

\* \* \* \*

**A**CTORS, singers, and announcers on commercial programs of seven broadcasting companies who have not had an increase in pay since 1940 received a 10 per cent increase on August 28th under a ruling by the War Labor Board. The increase was retroactive to March 8th.

Companies involved are the National Broadcasting Company, the WOR Program Service, Inc., Columbia Broadcasting System, Inc., and the Blue Network Company, Inc., all of New York; the Don Lee Broadcasting Company of Hollywood; and the WGN, Inc., and Agricultural Broadcasting System, both of Chicago.

The AFL American Federation of Radio Artists represents the employees who work in the companies' studios in New York, Chicago, Los Angeles, San Francisco, and Hollywood.

\* \* \* \*

**A**N order for the revision of rates of the Southwestern Bell Telephone Company to eliminate discrimination between its interstate and intrastate rates was issued by the Arkansas Department of Public Utilities last month. A. B. Hill, chairman, and Marvin Hathcoat, commissioner, said the revision would save telephone users about \$45,000 annually.

The new schedule will eliminate report charges on intrastate calls and will substantially reduce rates in the intrastate long-haul traffic where the greatest discrepancies have existed, the commissioners said. It will increase the short-haul rates, principally in the person-to-

## WIRE AND WIRELESS COMMUNICATION

person classification. The OPA had notified the commission and telephone company that it would not interfere in the new schedule proposal, despite "our views regarding the lack of need for increasing rates for the short-haul toll messages."

The new schedule would become effective September 15th. The commission initiated the proceedings November 21, 1941.

\* \* \* \*

**C**ONTENDING that the differential between interstate and intrastate long-distance telephone rates is permitting the same situation to be created in telephone rates as now exists with respect to interterritorial freight rates, Walter R. McDonald, chairman of the Georgia Public Service Commission, last month demanded that intrastate rates be made the same as interstate rates.

Failure of conferences between the Southern Bell Telephone & Telegraph Company to equalize the rates would be met with early assignment of a hearing on a rule *nisi*, issued last November by the commission, calling on the company to show cause why the intrastate rates should not be reduced, McDonald added.

Asserting that Southern Bell's share in toll business interchanged with Long Lines will represent a gross increase of \$7,000,000 for the year, more than double 1942 revenues from the same source, he said it will enable the company to earn 9.619 per cent before payment of excess profits taxes and 6.405 per cent after payment of the excess profits tax. The return was based on a study made by the nine state public service commissions served by the company, and was figured on the company's average net depreciated book investment, he added.

H. S. Dumas, president of Southern Bell Telephone & Telegraph, said Chairman McDonald's figures are "misleading" and that the company's earnings in the state now show a lower level than at any time in a number of years. He said the commission chairman used figures representing gross income rather than net income and contended the increase in

cost of operations in war-time emergency conditions more than offsets the net increase the Southern Bell Company derives from a business increase.

\* \* \* \*

**N**INE radio executives were designated last month as an advisory committee to the Office of War Information to assist in handling information problems related to the broadcasting field. The committee is similar to a newspaper group named by Palmer Hoyt, OWI domestic director, several weeks ago. The group includes Lewis Allen Weiss, vice president and general manager, Don Lee Broadcasting System; Miller McClintock, president, Mutual Broadcasting System, Inc.; William S. Paley, president, Columbia Broadcasting System, Inc.; Mark Woods, president, the Blue Network; Martin B. Campbell, managing director, station WFAA, Dallas studios, and WBAP, Fort Worth studio; Leo Fitzpatrick, vice president and general manager, the Goodwill Station, Detroit; Herbert L. Pettey, director of WHN, New York; Neville Miller, president, National Association of Broadcasters; Niles Trammell, president, National Broadcasting Company, Inc.

\* \* \* \*

**F.** E. D'HUMY, vice president of Western Union Telegraph Company, recently said a postwar method of beaming telegrams by light waves might make present-day wire transmission look as obsolete as the horse and buggy.

Speaking at a hearing on the proposed merger of Western Union and Postal Telegraph, he told members of the Federal Communications Commission that the new device was comparable to television. He called it telefax.

Mr. D'Humy said telefax would mean better service and lower rates to the public. Since an exact reproduction of the original message as prepared by the sender would be transmitted, he said, chances for error would be infinitesimal. Development of the plan would extend over a 10-year period.





# Financial News and Comment

By OWEN ELY

## Possible Refunding Operations— \$3,350,000,000

THREE bond-refunding operations are currently under way—the Pennsylvania Electric, West Texas Utilities, and Iowa Power & Light bonds—together with the offering of 450,000 shares of Idaho Power common stock. The underwriting houses will then take a breasting spell, to put forth their best efforts on the government war bond campaign. About the middle of this month or later the Atlanta Gas Light issues of bonds and preferred stock are expected, with several other issues to follow (Delaware Power & Light, Public Service of Oklahoma, possibly Laclede Gas).

The refunding accomplished or planned this year, however, is only a drop in the bucket compared with the total available amount. It is, of course, impossible in many cases to state whether an issue can be currently refunded without careful appraisal, but the issues included in the table on page 365 are those with coupon rates of 3½ per cent or more which are selling substantially above the redemption price—the usual indication of a possible refunding. Following are the group totals (millions of dollars):

	Preferred		
	Bonds	Stocks	Total
Independent companies .....	\$ 864	\$112	\$976
Holding company systems .....	2,135	239	2,374
	\$2,999	\$351	\$3,350

It is interesting to note that, of the total \$3,350,000,000 possible refunding, 71 per cent is for holding company systems—a somewhat disproportionate

amount. One explanation appears to be that the holding companies probably have more difficulties in obtaining permission to refinance than the independent companies. In many cases the SEC has delayed holding company refunding plans pending investigations into various matters, and in other cases the Federal Power Commission has brought pressure to bear on holding company subsidiaries for substantial write-offs. The latter is not necessarily a bar to a refunding operation but in many cases it causes difficulties and delays. Competitive bidding requirements may also be a retarding factor.

Of course, there is much less incentive to carry through refunding operations since the application of the excess profits tax, with the resulting diversion of 80 per cent of net savings to the Treasury Department. In many cases a sharp pencil is required to figure whether refunding is worth while. In the case of the huge proposed refunding operations of the Niagara Hudson Power system, the net saving after taxes would amount to only \$384,000 (see the *pro forma* income statement, page 34 of the reorganization plan), which is less than one-fifth of one per cent on the \$209,000,000 debt which it is proposed to refund.

ANY lifting of the excess profits tax in the postwar period will thus have a double benefit to utility security holders, since it would help to expedite a huge volume of refunding.

Of course, most companies realize a large nonrecurring tax saving because of the "loss" on call premiums, which is allowable as a deduction from taxable income. In some cases this results in a

## FINANCIAL NEWS AND COMMENT

### POSSIBLE UTILITY REFUNDING OPERATIONS

(Millions of Dollars)

Name of Company	Bonds	Pfd. Stocks	Total
<i>Independent Companies:</i>			
Pacific Lighting .....	..	20	20
Southern Cal. Edison .....	..	83	83
Consolidated Edison .....	216	..	216
Pacific Gas & Elec. ....	254	..	254
Detroit Edison .....	84	..	84
Commonwealth Edison .....	215	..	215
Misc. independent companies .....	95	9	104
<i>Holding Company Systems</i>			
Public Service of N. J. ....	..	30	30
Standard Gas & Electric .....	247	2	249
Commonwealth & Southern .....	260	..	260
Columbia G. & E. ....	49	..	49
United Gas Improvement .....	164	89	253
Niagara Hudson Power .....	133	..	133
New England Power Asso. ....	50	..	50
American Water Works .....	92	..	92
American Power & Light .....	252	7	259
American Gas & Electric .....	22	..	22
National P. & L. ....	11	11	22
North American Co. ....	136	9	145
Electric P. & L. ....	135	20	155
Engineers Public Service .....	72	20	92
Consolidated Electric .....	15	..	15
Cities Service .....	130	6	136
Middle West .....	76	..	76
United Light & Power .....	18	17	35
New England Public Service .....	25	..	25
Associated Gas .....	154	28	182
Misc. holding companies .....	94	..	94

startling increase in earnings for the current year, but it is increasingly the practice to avoid this abnormality by setting up a "charge in lieu of tax savings."

### United Corporation

(*Fourteenth in a series of articles on holding companies.*)

UNITED Corporation was originated in 1929 to accumulate holdings in eastern utilities, but it has not assumed any active management functions over its so-called subsidiaries similar to those exercised by Electric Bond and Share and most other holding companies (through their service subsidiaries, or otherwise). However, under the Utility Act the company was forced to register as a holding company, since the act defined such a company as one holding more than 10 per cent of an operating utility company's common stock. Thus

Columbia Gas & Electric, Niagara Hudson Power, Public Service of New Jersey, and United Gas Improvement are considered "subsidiaries" of United. Adjusting for the recent partial liquidation of United Gas Improvement, United Corporation's investments are approximately as shown in the accompanying table. (See page 367.)

The liquidating value per share of about \$45 compares with the current market price around 30 (range this year 34½-17½; last year 18-11).

IN its recent decision rejecting the company's plan, the SEC described the company's genesis as follows:

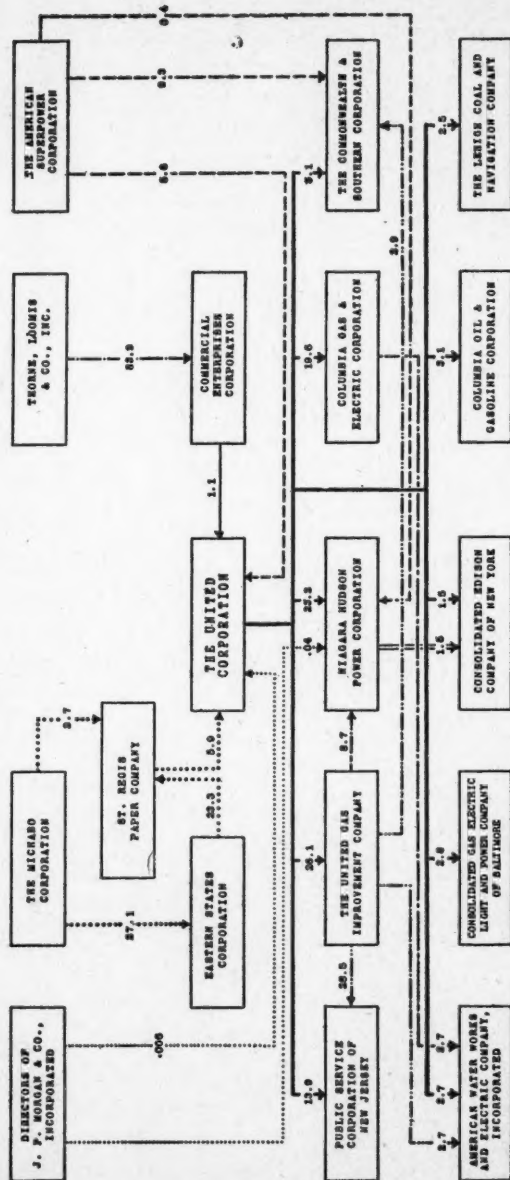
The immediate objectives of the organizers appear to have been to relieve Morgan-Drexel of their extensive investments in utility securities and to eliminate the apparent threat to UGI and subsidiaries from rival financial interests. In addition thereto, United was designed by its organizers as a

APPENDIX A-1

CERTAIN SHOWING VOTING STOCKHOLDINGS IN CERTAIN CORPORATIONS INCLUDING THE UNITED CORPORATION

AS OF SEPTEMBER 30, 1962

(Based on information furnished The United Corporation by the various other companies)



КОМПОЗИТЪ СЪАНОКС

(a) Consolidated Edison Company of New York formerly Consolidated Gas Company of New York  
(b) Eastern States Corporation formerly Eastern States-Power Corporation  
(c) The Michels Corporation formerly F. L. Carlisle & Co., Inc.

Note: The above chart does not give effect to holdings of common and preference shares of The American Superpower Corporation because voting power is now exercised by the preferred stock of that corporation because of dividend arrearages.

These holdings, as of September 30, 1942, were as follows:

Thorne, Louis & Co., Inc.	300,498 shares Common
Commercial Enterprises Corporation	30,602 shares Preferred
Commercial Enterprises Corporation	4,360 shares Common
The United Gas Improvement Company	4,080 shares Preferred
The Commonwealth & Southern Corporation	369,000 shares Common

Directors of J. P. Morgan & Co., Incorporated  
 The Michiko Corporation  
 Mt. Fuji Paper Company  
 Nippon Paper Corporation  
 Turner, Louis & Co., Inc.  
 Commercial Enterprise Corporation  
 The American Paper Corporation  
 The United Corporation  
 The United Gas Improvement Company  
 Columbia Edison Power Corporation  
 Columbia Gas & Electric Corporation

## FINANCIAL NEWS AND COMMENT

device for gaining a strategic foothold in the utilities located on the eastern seaboard and contiguous territories and to assure the organizers a preëminent position in these utilities. The bankers' interest in these utility enterprises was easily discernible. No doubt so large a group of utilities would be in need of refinancing or new capital from time to time, thus providing a source of underwriting profits and fees for depositaries, registrars, and transfer agents, and it was the sense of the organizers that they receive the lion's share of these emoluments. . . . Thus, it is evident that United was conceived by its creators to play an important rôle in the utility companies in which it was to acquire substantial interests, and was not designed as a mere "investment company."

In its findings and opinion dated August 16th (Release No. 4478) the SEC held that the company's plans for conversion to an investment trust status were indefinite as to timing and insufficient in extent. While the Utility Act describes a holding company as one which holds an interest of 10 per cent or more in the voting securities of another utility, it also gives the SEC power to determine whether a "person" exercises control even if holdings are less than 10 per cent—and elsewhere in the act a "person" is defined as a company or an individual. Hence the 10 per cent figure is more or

less meaningless except as an implication that it should be the usual controlling factor. In any event, the SEC in this case feels that, even if United made good on its proposal to reduce holdings to less than 10 per cent in each case, it would still exercise control and would therefore still be in the holding company class.

The commission did not, however, close the door to the possibility of conversion to an investment trust status, and in effect permitted United to try again. The commission said that "Under all circumstances of this case we have determined that we will withhold the issuance of a dissolution order and will require only that United correct the inequitable distribution of voting power within its own company by recapitalizing with a single class of stock and that it shall cease to be a holding company . . . It will be necessary for United to satisfy us that no control or controlling influence remains over its present statutory subsidiaries. In any case, with its recapitalization reduced to a single class of stock, United will be in a position to distribute most or all of its portfolio holdings to its existing security holders."

	No. of Shares (000)	Price About	Value About (Mill.)	Per Cent of Total	Est. Annual Income (Mill.)
<b>Investment in "Subsidiaries"</b>					
Public Service of New Jersey .....	1,493	15	\$22.3	20.1%	\$1,493
Philadelphia Electric .....	2,022	19	38.5	34.5	2,426
United Gas Improvement .....	6,066*	21	13.6	12.2	....
Columbia Gas & Electric .....	2,411	31	9.0	8.1	....
<b>Investments in Other Utilities</b>					
Niagara Hudson Power .....	2,333	21	6.4	5.7	....
Commonwealth & Southern .....	1,798	1	1.3	1.2	....
Consolidated Edison .....	204	22	4.5	4.0	326
Consolidated Gas of Baltimore .....	33	67	2.2	2.0	119
Lehigh Coal & Navigation .....	49	71	.4	.4	32
American Water Works .....	63	61	.4	.4	..
<b>Investments in Industrial Companies</b>					
25 high-grade common stocks .....			4.0	3.6	186
<b>Net Current Assets Estimated</b> .....			8.8	7.8	3
			<hr/> \$111.4	<hr/> 100.0%	<hr/> \$4,585 549
Less operating costs .....					\$4,036
Amount per share preferred stock ....			\$45		\$1.62

\* Ex distribution of Public Service and Philadelphia Electric.

## PUBLIC UTILITIES FORTNIGHTLY

**W**ALL Street reports indicate that United may be planning a partial distribution of assets. It is rumored that preferred stockholders may be offered \$4 in cash, one share of Philadelphia Electric, a half share of Public Service, and one share of Columbia Gas & Electric—a total market value of about \$33.75. Whether such a proposal would meet with SEC approval remains to be seen. It would, of course, be an answer to the commission's criticism regarding the lack of a definite program for disposing of excess holdings. It would, however, defer the question of recapitalization raised by the commission.

### *National Power & Light Speeds Dissolution Plans*

**N**ATIONAL Power & Light in the twelve months ended June 30th reported consolidated system earnings of 97 cents a share on the common stock, an increase of 52 per cent over the previous period; and for the June quarter 21 cents compared with 9 cents in 1942. These sharp gains in net occurred despite a slight decline in revenues in both the twelve months' and three months' periods, and resulted principally from a decrease in fixed charges, together with a gain in miscellaneous income. The result was achieved in spite of an increase of over \$1,000,000 in Federal taxes.

On July 22nd the company asked SEC permission to sell to Memphis Generating Company, a subsidiary, 3,500 shares of the latter's stock at \$100 per share, and this was granted August 27th. Proceeds of the sale, together with cash and funds to be received from other subsidiaries, will be used to retire the remaining 12,000 shares of National's preferred stock at \$100 per share. It is expected that the remaining 47,000 shares of Memphis held by National will either be sold or distributed to common stockholders along with other assets.

On August 2nd the U. S. Circuit Court of Appeals at New York denied the petition of Samuel Okin for a review of the SEC order authorizing National to sell

its interest in West Tennessee Gas Company to Equitable Securities Corporation of Nashville, Tennessee.

The company had originally intended to acquire the cash needed to retire the remaining preferred stock through sale of its holdings of 16,806 shares of Carolina Power & Light preferred stock. Apparently, the SEC was not in sympathy with such a move for on August 11th the company amended its previous plan and now proposes to surrender its holdings of Carolina preferred, together with an unspecified amount of common stock, to the latter company (for cancellation) as a "capital contribution." Further, the company proposes to transfer to Carolina its interests in Roanoke River Power Company, including the common stock and a \$1,575,500 6 per cent income note. Upon completion of these proceedings the remaining Carolina stock would be distributed to its own stockholders.

**R**EGARDING the distribution of other holdings, particularly Birmingham Electric and Pennsylvania Power & Light, various steps have been taken to meet SEC criticism of Birmingham and no further adjustment appears necessary. In the case of Pennsylvania, it seems possible that the SEC might acquire some agreement for future amortization of a write-off, or some other restriction on dividends. (National Power & Light is currently entitled to receive 25 per cent of available net income as common dividends.) Should the distribution be delayed for several years, however, it is probable that such a measure might not be required because of additional earnings "plowed back."

In the recent description of National Power & Light in this department (August 5th, page 167) reference was made to difficulties arising from the SEC's tentative findings that Pennsylvania Power & Light's books were inflated to the amount of \$46,476,982. This figure is out of date and should not have been used, for in Release No. 2962, page 16, the SEC stated "at least \$21,000,000 . . . is subject to question."



## FINANCIAL NEWS AND COMMENT

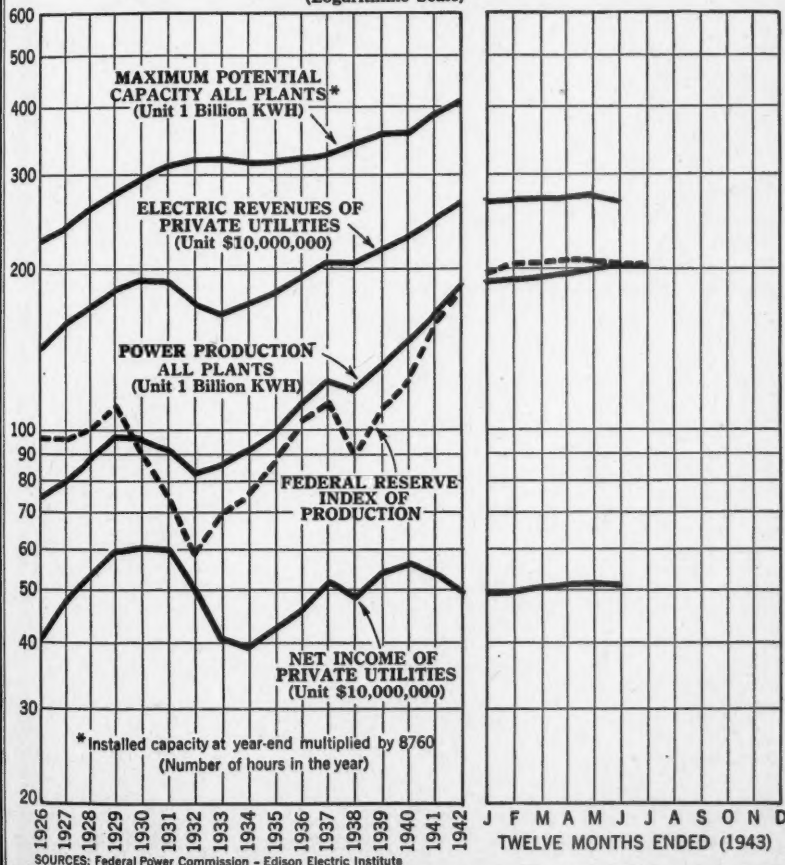
Pennsylvania Power & Light early this year pointed out to the SEC that since 1939 the excess of plant account over debt and preferred stock has been increased by \$21,800,000 and that it estimated in the next 5-year period another \$30,000,000 excess will be created through plant additions and debt retirement, thus reducing the ratio of mortgage debt to plant account to 38 per cent by the end of 1947. Hence, National sees no reason for making any changes with

respect to Pennsylvania's capital property or other accounts.

Referring to the implication in our August 5th description (last paragraph) of a remote possibility that the SEC might see fit to subordinate part of Electric Bond's investment in National, there appears to be no basis for such a possibility since Electric Bond's interest (according to its U.S. report to the SEC) cost \$59,612,107—far in excess of the present market value.

### ELECTRIC OUTPUT AND EARNINGS 1926 - 1943

(Logarithmic Scale)





# What Others Think

## Immediate Consideration of Postwar Problems Urged



**C**HANGES leading into the postwar era are taking place today and will become progressively more important tomorrow and next week and next month, and over whatever period of time is required to achieve victory.

This was the opinion expressed by George E. Whitwell, vice president, Philadelphia Electric Company, in warning the electrical industry to prepare for the postwar era immediately. He expressed himself in an address before the National Industrial Conference Board, which was reproduced in a publication on Conference Board reports entitled "Preparing for Postwar Reconstruction." Mr. Whitwell emphasized his belief that flexibility of mind, alertness, study, and constant attention to the things that are so rapidly changing about us are the first lessons for anyone to learn in a study of what is going to happen at some time in the future. He said:

It has been said that the electrical industry—and this is true of the gas business also—is a service industry, and our after-the-war problems will be largely controlled for us by our customers and by other manufacturers. Ours is the job of providing the service. The service that is required will result largely, it is said, from those who use that service and by the equipment that they are able to keep operating through the use of that service. That statement is for the most part true. The service industries are not confronted with many of the problems facing other industries. I do not think we are going to have an unemployment problem such as theirs. We are not going to have a problem of conversion similar to theirs. I am not sure that we are going to have financial problems comparable with theirs.

But, gentlemen, beginning today and tomorrow, it is our concern as a united electrical utility industry to render all possible aid to our customers, so that they may the more rapidly solve their problems and thereby be in a position to give us greater load more quickly, and we need not argue whether

that load is needed to replace load that we are losing rapidly or merely to superimpose on top of whatever we may then have.

Mr. Whitwell said that a problem that is rapidly coming to the fore has to do with the cancellation of war contracts and urged the industry to take a lively interest in a situation in which many industrial customers are going to find themselves—with very little cash, great quantities of inventories, and half-finished goods on hand, the necessity for converting into peace-time pursuits, and the problem ahead of them of dealing with the government over many months in order to obtain necessary cash. Continuing, Mr. Whitwell said:

Utility company power contracts and their cancellations are very small problems compared with \$75,000,000,000 worth of cancelable contracts awarded to industry if the conflict were to end today, and there is no promise that that sum will be smaller one, two, or three years from now. Yet cancellations of contracts between the government and industrialists have already occurred, and that indicates that some of the postwar problems are already with us.

Another item demanding consideration is the \$14,000,000,000 of United States government money now invested in industrial plants and private facilities. This sort of problem—new to all of us—cannot be shelved until some siren announces the beginning of the postwar period, for such action, I fear, will find us floundering with a problem that should have been tackled much sooner. And so I say again to you that much that may be thought of as postwar is of immediate importance.

**D**ISCUSSING development of markets, Mr. Whitwell said the problem of building load electrically through the use of devices and appliances built by the manufacturers will remain with the utilities when the war is over. Nobody, as a result of the war, he said, is going to

## WHAT OTHERS THINK

relieve us of that responsibility—at least to a degree that will satisfy us in the development of our business. He added:

Just a word about lighting. Let me try to dramatize it this way: Today the industry that does not use 20 per cent of its electricity for lighting and 80 per cent for power and heating has not been sold what easily could be sold to it. Fifteen short years ago, when I first broke into this kind of work, 10 per cent was considered a high percentage of lighting in an industrial plant, and I hold before you not only the possibility but the sure bet of 30 per cent as a reasonable goal after the war. In the meantime, there is little doubt in any of our minds that while we are contributing greatly to the winning of the war by better lighting, we can at the same time, if we are alert, learn those things that will bring us to that 30 per cent goal.

Noting briefly some of the developments in the field of electronics and the important part they are playing in speeding up war production, Mr. Whitwell declared that now is the time to discover the answers to the marketing and engineering questions with respect to these and many other developments, lest we "find ourselves caught between a wealth of development on the one hand and a sluggish market on the other."

In another address included among the Conference Board reports, H. S. Osborne, chief engineer, American Telephone and Telegraph Company, predicted that at the end of the war the telephone companies will have a very large backed-up demand for service which it has been impossible to give because of war-time restrictions. He said:

There will be probably hundreds of thousands, perhaps many hundreds of thousands, of people who will wish telephone service who have none at all. There will be other large numbers of people who want more telephone service than it has been possible to give them—individual lines instead of party lines, more business extensions, or residence extensions.

In addition to this large backed-up demand for service, the telephone plant is now very heavily overloaded and will no doubt be more overloaded by the end of the war. It is carrying much more telephone business than it is designed to carry with the standard of service which we like to give our customers in peace time.

Also, at the beginning of the postwar

period the telephone organizations will be markedly understaffed. The telephone companies now have 45,000 men in the service, compared with 145,000 total male employees, and that ratio will no doubt be larger at the end of the war.

Declaring that at the end of the war telephone companies will again commence giving service to everybody who wants it, Mr. Osborne said "that will involve building a large amount of plant to take care of the backed-up demand to which I have referred unless, of course, that demand should be wiped out by a depression of major dimensions" which would greatly reduce all business activity.

New techniques for the improvement of telephone service have been developed by the telephone research experts under pressure of war demands, Mr. Osborne explained, and he declared that these will find their place in peace-time telephone service. A lot of construction work is involved under the plan for the future.

**R.** E. GINNA, assistant to the president, Rochester Gas & Electric Company, in another address stressed the importance of gas as well as electricity in the home of tomorrow. He added:

The need for a healthy competitive situation in the postwar period should be obvious to all. Ruinous competition inevitably reacts on the aggressor, and though one might consider it trite, the fact remains that there is more than ample room in the domestic sales market for each of the industry's services in their economic spheres.

The need for a mutual understanding of each other's problems and a true consideration of the relationship of the utility industries to each other is urgent and requires coöperative study and planning. Such an understanding has been reached by many combination companies.

This Conference Board program deals with readjustments of various kinds. As concerns the gas and electric domestic load problem, the word "realignment" is a far better description of the differences of opinion which exist than the word "readjustment," which implies radical changes.

He noted that only about 20 per cent of the annual kilowatt-hour sales and about 37 per cent of the annual revenue were obtained in the years preceding the war by the electric industry in

## PUBLIC UTILITIES FORTNIGHTLY

the American home, whereas the manufactured gas industry depends on the home for about 70 per cent of its sales and obtains almost 80 per cent of its revenue therefrom. Natural gas business has a domestic sales ratio more in line with the electric utilities, being about 27

per cent and 55 per cent, respectively. He said reliable sources indicated there was invested \$2,140,000,000 in the manufactured gas industry, \$2,600,000,000 in the natural gas industry, and nearly \$15,000,000,000 in the electric utilities.

—C. A. E.

## Science and Industry Plans for the Future

**D**IRECT and indirect benefits will come to all public utilities as a result of new developments in manufacture ready for the postwar world, as revealed in a survey conducted by the National Association of Manufacturers and published in a booklet entitled "Testimony to the Future."

Abundant evidence that the practical men of science and industry are carrying out the mandate of public opinion in planning now for the coming of the peace is presented in the booklet.

The work of the NAM Research Advisory Group, headed by Dr. A. R. Olpin, the booklet reports the results of a survey in response to a request for a "realistic picture of the prospects for new postwar products and the part production of them will play in raising the American standard of living."

Dr. Olpin, director of the Research Foundation of Ohio State University, recalling that a recent NAM public opinion survey showed 75 per cent of the people thought that American industry should now be working to develop new and better products, explained that while research for war comes first now, management already is studying how to transform war developments to peace-time use.

"While the men who responded to the NAM questions live by imagination," he said, "they are extremely cautious as prophets and they warn against fanciful, misleading pictures of the postwar world. They recognize that industry has a heavy responsibility to do everything within its power to prevent widespread unemployment in the transition period

between armament production and the resumption of peace-time pursuits." Dr. Olpin continued:

It must be borne in mind constantly, however, that realization of our hopes for steady employment and prosperity in postwar America is dependent upon an economic climate in which research and industrial expansion can attain maximum growth. There must be a revision in tax policies which are preventing industry from accumulating adequate reserves for reconversion and increased peace-time production facilities. New investment capital must be encouraged into industry if we are to enjoy the full harvest of our ingenuity and productive capacity.

To get peace-time industry under way rapidly, models perfected before the war must be the first ones produced, with such minor improvements as can be made without delay. The results of new research, however, then will be added as rapidly as possible in the form of new products and improvements. Marked improvements in living will come from this research and every American will benefit from the creative and productive efforts of science and industry working as a team to build a better postwar world.

**T**HE NAM Research Advisory Group, made up of twenty-six scientists and leaders in industrial research, emphasized that the booklet was intended only as a sampling of new products and processes and did not purport to be an exhaustive survey. More than 200 replies to the NAM questionnaire were received from industries running through the alphabet—from aviation to zinc—embracing some of the largest corporations in the world as well as many companies with fewer than four hundred employees.

Among new developments reported in the home-building field were such things

## WHAT OTHERS THINK



Courtesy, *The Washington Daily News*

"WHY DON'T YOU KEEP IN TOUCH WITH THE OFFICE, BIBBS? WE HAVEN'T MADE VACUUM CLEANERS IN TWO YEARS!"

as plastic "wire" for window and door screens, new laminated gypsum products, improved rock wool insulation, prefabrication of major home-heating equipment, and the trend toward standardization of structural elements as contrasted with former standardization of complete designs for American homebuilders "who resist architectural regimentation."

Home furnishings and equipment include such things as liquefied petroleum gas for farms and country homes at about one-fourth the expense of bottled gas; new gas-fired, all-year air-condition-

ing units; smokeless coal stoves; wallpaper which can be applied by the purchaser; new synthetic resin finishes for furniture to be produced faster and sold cheaper; a light-metal and plastic evolution in household equipment generally.

Extension of quick freezing and dehydration of food and the fortification of foods by the addition of vitamins and new protein derivatives; synthetic spices; innumerable medical discoveries and development of chemical therapies such as the new wonder drug, penicillin, highlight the food and health section.



## PUBLIC UTILITIES FORTNIGHTLY

The war has greatly accelerated research on synthetic fabrics which will be available in greater quantities than ever before. They are adaptable for such things as crush-proof velvet, fabrics for men's suits and shoes. Synthetic wool for fleecy fabrics, new leather-tanning agents to make shoes last longer were reported. Tremendous progress has been made in the treatment of fabrics to make them resistant to fire, mold, and insects—including moths. Fireproof textile materials may be expected to be used widely for drapes, curtains, and rugs in homes as well as churches and theaters. A new light synthetic rubber-coated fabric has the same tensile strength as old waterproof fabrics four times as heavy.

COMMENTING that "the time may not be far distant when we will have a popular song about a helicopter built for two, because designers of this form of family plane and producers of parts for experimental models have great confidence in it," the booklet listed, among others, the following developments: high-speed gas turbines for commercial and cargo planes and numerous other uses; steel propellers to displace rather than combine with aluminum for heavy commercial planes; mass-produced railroad car wheels of metals more resistant to heat caused by brake shoes; use of new

resins to stabilize soil for airports; new bus designs to take advantage of new light metals and high-octane gasoline; widespread application of radar to peacetime navigation; turbine-driven locomotives with the turbine geared directly to the drivers, indicating a saving of more than 25 per cent in steam.

A new automatic coin changer which will change dimes and quarters into nickels; an automatic beverage machine which will remove the cap from the bottle and pour the contents into a cup; new methods will make possible the production of larger television pictures for home use; television in theaters will show pictures of events as they occur; electron microscopes, magnifying an object as much as 100,000 times, may make it possible to see molecules for the first time; electronic devices, measuring darkness, will turn artificial lights on and off as required; radio frequency heating to purify and dehydrate foods; heavy paper cylindrical forms to take the place of wood forms into which concrete is poured for building construction; treated paper electrical conduits to replace metal and wood; lignin plastics made from the waste products of paper manufacture; and many combinations of metals and plastics, ceramics and plastics, and synthetic resins and paper to fill special needs.

## Congressman Proposes Aid to Private Enterprise

U. S. Representative Charles S. Dewey, Illinois Republican and Assistant Secretary of the Treasury in the Coolidge administration, has made some specific proposals with respect to how the postwar reconversion problem can be solved without a big WPA for industry.

In a recent letter to the House Naval Affairs Committee, Mr. Dewey urged revision of Federal tax statutes to encourage return to a system of venture-some "risk capital" as a means of reinvigorating and expanding private indus-

trial enterprise after the war. He said also that loans by banks to local industries offer the most practical solution for reconversion of industry to peacetime operations. He suggested a system of government guaranties on such loans.

He described as impractical various proposals that, in the renegotiation of war contracts, allowances be made for postwar reconversion reserves. The Naval Affairs Committee now is studying effects of the renegotiation law.

In his letter, Representative Dewey made the following statements:

## WHAT OTHERS THINK

American industry had its humble beginnings through what is known as "risk capital" being available and seeking investment. If "risk capital" is to be induced to resume its historic place in American industrial development, our tax law should be so amended as to offer an incentive for people to risk investment in new and uncertain undertakings.

Under existing taxes whatever gain is realized on a risk is promptly taxed away and the tax system gives little compensation to whatever loss may be sustained. When the war terminates and returning soldiers are seeking jobs or are desirous of setting up new enterprises themselves, our tax system should be so amended that it will favor these adventurers in trade and industry instead of handicapping the initiative.

With respect to the suggestion that the government supply guaranties for reconversion loans, Mr. Dewey wrote:

In a great many cases, perhaps the majority, local banks will need no encouragement of any kind to finance the reconversion of local industries. But, in order that there may be assurance that capital in the hands of the banks is made available to industry, a

certain protection may have to be given the banks. For this purpose I believe that government machinery already in existence could be employed. It could be done simply through the device of the government executing guaranties of loans made for reconversion purposes. Such loans by the local banks might be guaranteed up to a maximum of 90 per cent and have a maturity not in excess of ten years.

The plan could be so worked out that the amount of return which the local bank would receive on its loan to the local industry would be based on a graduated scale to encourage the local bank to assume a higher proportion of the risk.

From the interest on the loan paid by industry would be deducted a "guaranty fee," but the amount of "guaranty fee" the government would charge the bank would depend upon the percentage of the loan guaranteed by the government.

Inasmuch as the graduated guaranty charge would reduce the local bank's interest return, he concluded, there would be the natural tendency on the part of the bank to keep the percentage of the government guaranty at a minimum.

## Social, Political, and Economic Costs of Social Security Emphasized

THE tremendous social and political costs, as well as the huge economic burden of social security in America under the Wagner bill, are graphically described in an address by C. O. Pauley, president of the Insurance Economics Society of America. Mr. Pauley, who made it clear that his business is life, accident, and health insurance, expressed his views recently before the Social Insurance Legislative Forum, International Association of Insurance Counsel.

"Let me make it clear at the beginning that any views I may express with regard to compulsory government insurance are not based upon any unfavorable effect it might have upon my business, but are founded solely upon the effect which I believe such a program as proposed by Sir William Beveridge or the Wagner bill will have upon our economic, social, and political future," he said.

Commenting on the failure of American social planners to give any estimate of the cost, Mr. Pauley said it has been estimated by very competent research men that a proposal similar to the Beveridge plan, giving a subsistence level of benefits, would cost the United States approximately \$15,000,000,000 per year. When the program is in full operation, the minimum cost would be 20 per cent of payrolls of employees and self-employed up to \$3,000 per year, he said. This huge cost does not take into account other costs which the taxpayers also must meet, he pointed out, adding:

The nation, like an individual, has just so much money to spend, all of which must come from the labors and enterprise of its people. If we want a social security program of this magnitude more than we want other things, perhaps we can have it. In considering this program, however, we must bear in mind that there are certain other obligations which must come first. When this

## PUBLIC UTILITIES FORTNIGHTLY

war is over, we shall probably have a national debt of \$300,000,000,000 or more. If we assume the interest on this debt is only 2 percent, and it is amortized over a period of fifty years, it will take \$9,500,000,000 a year in taxes. We must finance the rehabilitation of most of the world after the war, and for a time must feed and clothe millions outside our own borders. Recently there appeared in the newspapers a report of the Investment Bankers Association in which it was estimated that our own industrial development would require \$5,000,000,000 a year for the first three years after the war. Our people want a constantly improved and extended system of education, we want more parks and recreational facilities, we want a great many things which are not in themselves productive, and, in addition, we must support the vast number of municipal, state, and Federal employees, and the costs of the services which we hope they will render us. All of this must be supported by free enterprise. You can take only so much in the way of taxes or contributions from the results of free enterprise without "killing the goose that lays the golden egg." Can our free economy, in addition to all the other burdens it must carry, support a compulsory government insurance scheme which will impose a tax of 20 per cent or more on payrolls and take \$15,000,000,000 to \$20,000,000,000 from the earnings of those who work and produce and redistribute it to those who do not work and who are not productive?

ONE of two things will happen if we embark upon a social insurance scheme which our national economy cannot sustain, he said. Either the actual benefits will be reduced by inflation, which reduces the purchasing power of the dollar with all of its attendant evils, or, as is more probable, the failure of free enterprise to give full employment and to sustain the social security burden will result in a demand that the government take over more and more of the functions now performed by private enterprise until we have a completely socialized economy. He continued:

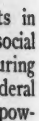
But the cost will not be entirely economic. It is even more difficult to estimate the social costs in the short time allotted to me. I cannot go into detail with regard to all the social ramifications of such a program. What will be the effect upon the character and the enterprise of a generation which knows that from before its birth in a government hospital, until it is laid away in the grave, a benevolent governmental bureau will pay the costs of being born, the costs of its educa-

tion, will supply its recreational needs, will furnish medical services and hospitalization in illness, provide an income during unemployment and sickness, and a pension if permanently disabled or retired by old age? What becomes of the incentive to rise above the conditions in which the individual is born? Will it not result in the rise of only a few who are born with great inner driving power and an unusual ambition, while the great mass of our people settle down on a dead level of security such as prevails in most European countries? Is it not possible that we may overreach ourselves in our efforts to give every man complete freedom from want and from fear without any responsibility on his part? It was the desire to achieve freedom from fear and from want for themselves and their families which urged men on from our eastern coast to settle the wilderness and the prairies and has made our nation what it is today. Perhaps the striving for the goal has been and is more important in the life of a nation than the goal itself.

WITH respect to political costs in connection with compulsory social insurance, Mr. Pauley noted that during the last quarter of a century the Federal government has been increasing its powers and functions at a rapid rate:

... Out of this has grown a bureaucracy which is increasing at an amazing speed. It is not wholly a product of the present administration, but its growth during the past decade has been tremendously accelerated. I think few of us realize the danger involved in this rapid growth of bureaucracy. It is not confined to Washington but is spreading all over the country. The state of Ohio has 25,000 state employees. There are 90,000 Federal employees in the state. Massachusetts has 21,000 state employees. There are 129,000 Federal employees in the state. Pennsylvania has 44,500 state employees and there are 215,000 Federal employees in the state. Wyoming operates its state government with 1,100 state government employees, but there are 6,200 Federal employees in that state. This does not include the armed forces. In addition to all of these various governmental bureaus, each vying with another for an increase in its importance, the amount of money it can spend, and the number of people it can employ, we have more recently developed hundreds of governmental corporations, some of which are not even audited by the Treasury or any other governmental department. ... But our existing bureaus will be completely overshadowed by a bureau which will be necessary to administer a social security system such as is contained in the Wagner bill. The Social Security agency has over 31,000 employees and already the

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Social Security Board has over 13,000 employees, which does not include the unemployment compensation administered by the states. The greater part of these employees are engaged in administering the old-age and survivorship insurance, which paid beneficiaries only \$110,000,000 in the last fiscal year.

of which every individual would at one time or another during his lifetime be dependent.

Expressing the view that the danger of bureaucrats is that they go on forever, impeded only for a time during change in administrations, Mr. Pauley said that if we lose our liberties it will be to millions of Federal employees, who more and more are regulating our individual lives and curtailing our individual freedoms. The American people are just beginning to sense the danger of this vast governmental organization, he said, and asked: "Will they be aroused in time to prevent its getting a stranglehold on us?"



## PUBLIC UTILITIES FORTNIGHTLY

**M**R. PAULEY insisted that he wanted government to do everything that cannot be done by private enterprise or that it can do better than private enterprise, and which will not impede or destroy private enterprise. He continued in part as follows:

I believe in social security, but I want to see it achieved by the efforts of the individual as far as possible by his own initiative. I believe the government has a great place in such a program. Any system of social security, private or public, is based upon nearly complete employment. Even Sir William Beveridge assumes that no system of social insurance can survive prolonged mass unemployment. And the government should bend every effort to prevent periods of mass unemployment in private enterprise and to make possible at all times profitable employment in private enterprise for all but a small proportion of its employables.

In conclusion, Mr. Pauley said that in his opinion government efforts should be directed primarily at the causes of unemployment, accidents, and disease, and to the rehabilitation of those who have been impaired. He does not believe the government should place emphasis upon paying citizens for being unemployed or sick and suggests it should encourage its citizens to provide against such contingencies by education, by savings, by insurance, and all other means available. Those whose needs are inevitable should be provided for by a judicious system of public assistance, rather than fastening upon the whole American people a vast compulsory social insurance program administered by an ever-growing bureaucracy.

—C. A. E.

## Power Pools and the War

**F**ORTUNE magazine, in the "Business at War" section of its August, 1943, issue, lauds the contributions which have been made to the war effort by the rapid creation and growth of power pools. In an item entitled "Pools for More Power," it points out that "during 1942, power pools contributed the equivalent of 1,500,000 kilowatts of electrical generating capacity to the national supply, 3.4 per cent of the total. And this capacity, once largely wasted, was put to work by building a few tie lines and establishing an elaborate control system."

Although power pooling is a comparatively old practice, the demands of war and Order L-94, of the War Production Board, against waste impelled utility men to sponsor power pools on a larger and more extensive scale. Citing the Southwest power pool as an example, the item continues:

... in mid-1941 the government decided to build a large aluminum plant near the bauxite deposits in Arkansas. Arkansas Power & Light took the lead in undertaking to supply the large amount of power needed. Within six months it had joined with ten other companies in eight states to form the Southwest power pool, and in another six months the excess current from Omaha to

New Orleans, from San Antonio to Vicksburg, was flowing to the plant at Lake Catherine to make metal for war. Since then the Southwest pool has tied in with TVA at Memphis, with Commonwealth & Southern at Gulfport, and has spread into central Texas and the north. It is also coordinated with the government dam at Grand river, as well as with other government hydro plants in the region.

The Southwest pool is the biggest so far, but other pools have also been formed. In the Pacific Northwest, the government's twin giants at Grand Coulee and Bonneville have been worked into a system with 11 public and private companies to serve the region from western Montana and northern Utah to the coast. TVA is the keystone of a network serving the great industrial expansion in the Southeast.

The creation of these war-time power pools, it adds, was hindered only by the usual legal and financial differences among companies, and the shortage of critical materials. But "making the pools work properly is another story." However, by means of automatic load control, carrier current, and other devices, circuit breakers are operated to clear the lines of faults, load changes are anticipated, and generators are given a warning to be ready for these load changes.

—E. M. P.



## WHAT OTHERS THINK

### The Purpose of the Holding Company Act

PERSISTENT efforts of the Securities and Exchange Commission to force the rapid disintegration of holding company systems is seen by the *New York Journal of Commerce* (editorial, August 26, 1943) as conclusive evidence that the administration does not intend to relax its drive to ultimately bring electric power generation under absolute control of a Federal power agency and wipe out private power companies.

The editorial notes that the administration has carefully sidestepped every proposal to suspend the death sentence clause of the Public Utility Holding Company Act of 1935. It notes that SEC activity has been so persistent that within the near future ownership of the major portion of the nation's electric light and power facilities will be vested in companies serving single cities or compact areas of limited extent. It comments further:

That this disintegration of large holding company systems involves an ulterior objective is obvious. That objective is defined frankly by the National Resources Planning Board in its 1943 report, which the President transmitted to Congress earlier this year. Proposing the formation of a Federal agency or corporation "to guide the development and use of electric power in the public interest," the Planning Board urged that this agency "operate electric power facilities in public water development projects" and "act as joint owner in copartnership with other public bodies and even with private groups." In time, this Federal agency would own a considerable part of the power-generating capacity of the country, and a network of long-distance transmission lines constituting a nation-wide "grid." Describing this ultimate function of the Federal power corporation, the National Resources Planning Board says: "Operating hydroelectric and steam-electric stations and buying and selling power for mutual benefit on a self-support-

ing basis, it would deliver low-cost power to any wholesale buyer over transmission systems owned or operated by the corporation or over other lines operated as common carriers. At all events control of the distribution function would remain in the hands of local groups. Independent distributing organizations, whether public, cooperative, or private, would purchase their wholesale supply from wholesale agencies operating as a part of, or in cooperation with, publicly owned supply systems; but they would remain free to purchase from better sources if available."

THE editorial says the report of the National Resources Planning Board ends all doubts on the question involving the purpose for which the Holding Company Act was passed. While sponsors have denied it, critics of the act have long contended that it was designed to substitute public for private enterprise in the provision of electric power in the United States. The Planning Board report, says the editorial, shows that the disintegration of holding company systems has been designed primarily to substitute for them a Federal power generation and distribution agency that will take over a number of the functions hitherto provided by the holding company organizations.

"Congress has yet to pass on the creation of such a Federal corporation to dominate the operation of the electric light and power industry," the editorial concludes. "If the national legislature does not favor this course of action, a comprehensive investigation into all Federal regulatory policies affecting utilities would be in order, for many of these have been formulated with the government 'grid' as the ultimate objective."

—C. A. E.

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Q "If the people of this country want to have the utility industry socialized, this should not be brought about indirectly through the subsidy arising from a tax program, but directly by a mandate of the people."

—HOWARD L. ALLER,

President, American Power & Light Company.

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## The March of Events

### WPB Approves Pipe Line

**P**LANs to build the nation's longest natural gas pipe line, to bring fuel 1,200 miles from the Southwest's gas fields to steel plants of the Appalachian area, were approved on August 30th by the War Production Board "to prevent interruption in war production."

Two applications to build the line, which is comparable to the recently completed Big Inch crude oil pipe line, were said to be pending before the Federal Power Commission. The WPB action granted priority for materials once the FPC acts. The WPB said that the gas would be needed by the winter of 1944-45 and agreed to make materials available beginning late this year.

The pipe line would carry 200,000,000 cubic feet of gas daily and its capacity could be stepped up to 300,000,000.

### Removal or Sale Authorized

**T**HE Federal Power Commission on August 30th announced its order and opinion (No. 103) authorizing the United Gas Pipe Line Company, Shreveport, Louisiana, to remove or sell all of its natural gas pipe-line facilities formerly used to deliver natural gas to Peoples Gas Company, Port Arthur, Texas, for resale in Port Arthur, Nederland, and Port Neches, Texas, except those facilities located within the city limits of Port Arthur which the applicant has agreed to sell to Peoples Gas Company.

The opinion stated that neither the depletion of the applicant's natural gas reserves nor its ability to continue adequate service to the Peoples Company was involved. The service that was rendered for many years has been discontinued by the voluntary act of the Peoples Company, the opinion said, and added that with the exception of the facilities which are to be sold by the applicant to Peoples for the sum of \$11,000, none of the facilities sought to be removed have been used since February 21, 1942.

### Private Carriers Tax Exempt

**M**ONEYS exchanged among private motor carriers for adjustment of charges for local cartage performed under government-approved joint-action plans are not subject to the 3 per cent Federal transportation tax, the

Office of Defense Transportation announced recently.

The ODT's announcement was based upon a ruling by the Commissioner of Internal Revenue. Under the Revenue Act of 1942, a Federal Tax of 3 per cent is levied on amounts paid for transportation of property by rail, air, motor truck, and water carriers.

When groups of merchants pool their delivery services and equalize the expense, the money so paid among the merchants is not subject to the Federal transportation tax, provided each merchant operates his own equipment with his own personnel but pools his merchandise with that of other merchants for transportation within a certain area, the Bureau of Internal Revenue has ruled.

In such instances the parties to the joint-action delivery plan are not considered by the Bureau of Internal Revenue to be in the business of transporting property for hire and hence are not subject to the 3 per cent tax.

However, if the merchants set up a corporation, or other separate entity, to make deliveries for all members, the amounts paid by the merchants for transportation services would be subject to the tax.

### FPC Postpones Hearing

**T**HE Federal Power Commission on August 28th announced its order postponing from August 31st to September 21st a hearing on an application filed by the Hope Natural Gas Company, Clarksburg, West Virginia, for a certificate of public convenience and necessity to construct and operate a 22-inch natural gas pipe line to extend from the company's existing facilities in Kanawha county, West Virginia, to a point in or near the Hugoton gas field in southwestern Kansas, a distance of approximately 1,140 miles. The hearing will be held as originally scheduled in the commission's hearing room at Washington, D. C.

The hearing was postponed at the request of the National Coal Association, United Mine Workers of America, Brotherhood of Locomotive Engineers, and other interveners in the proceeding.

### Fuel Oil for Utilities

**A**CTING to assure the uninterrupted operation of public utilities and manufacturing plants in the event of an unforeseen disruption

## THE MARCH OF EVENTS

of fuel oil deliveries next winter, the Office of Price Administration last month announced a procedure which will permit certain users of fuel oil for commercial, industrial, or governmental purposes to obtain emergency reserves of oil.

Under the fuel oil-rationing procedure, users of fuel oil for industrial, commercial, and similar nonheating purposes are issued allotments on a 3-month basis, these rations representing minimum requirements. The emergency reserve, or working inventory, arrangement is intended to guard against enforced shutdowns of those companies whose reserves are depleted and who might not be able to obtain their fuel oil supplies because of transportation difficulties or other temporary delays.

Consumers who are granted an inventory reserve are specifically prohibited from using a larger amount of oil than the amount of their allotment for the quarterly period.

Officials stated that a reserve of oil is particularly important in the case of gas utilities. If these plants were required to cease operations for only three minutes due to a lack of oil, it would require weeks to resume. In addition, the reserve arrangement will enable the oil industry to deliver large amounts of the heavy, industrial types of oil before the peak demand period begins this fall.

### Fight FPC Ruling

A FIGHT in the courts against the reduction in gas rates ordered August 3rd by the Federal Power Commission was decided upon recently by attorneys for the Cities Service companies.

An application for a rehearing on the order which would cut the gas rate from 40 cents a thousand cubic feet to around 25 cents would be filed with the commission, A. M. Ebright, of Bartlesville, Oklahoma, counsel for the Cities Service Gas Company, said. If the application is denied, a company spokesman said, its attorneys would go into Federal District Court to oppose enforcement of the rate reduction order.

The rate order was directed at the gas rate charges of the Cities Service Gas Company which serves municipalities in Missouri, Kansas, and Nebraska from Texas, Oklahoma, and Kansas natural gas fields.

### Court Upholds FPC

REFUSAL of the Federal Power Commission to allow the Puget Sound Power & Light Company additional interest and taxes as part of the cost of construction of a hydroelectric plant was affirmed last month by the United States Court of Appeals. The interest and taxes were sought by the firm for a period past the scheduled date for completion of the plant on the Columbia river, in Washington state. The court also upheld the commission in refusing to allow the company overhead costs

of two engineering companies affiliated with the company in construction of the project, known as the Rock Island project.

By the act and license, the project should have been completed August 1, 1932, while actually it was completed January 21, 1933, said the opinion written by Justice Thurman Arnold. The delay in construction was caused by the company "in order to avoid the hazard of borrowing large sums during the depression," the opinion declared.

### Extension Rules Eased

THE Office of War Utilities eliminated a vast amount of paper work on August 24th by simplifying the system by which applications for extensions of utility services involving small amounts of materials are handled.

A new order, U-1-f, permits utilities to grant extensions without filing applications with Washington when the restrictions of the order are met. This implies no relaxation of the restrictions, but eliminates processing of eight to ten thousand applications a month, most of which have been granted as a matter of necessity.

Under the new rules, domestic consumers seeking extension of electric, gas, or central heating service must be located in a critical housing area as determined by the National Housing Administration. This list is attached to the order as Schedule A. Water consumers need not be in one of these areas, as long as other restrictions of the order are met.

Industrial and commercial consumers must be engaged in an essential activity as defined in Schedules I and II of CMP Regulation 5. The cost of the extension must not exceed \$1,500 for underground construction or \$500 for other construction.

Schedule B of the order sets up complete construction standards for each type of extension, setting forth the specifications of permitted materials.

The new order does not apply in any case where construction or renovation is involved costing more than \$200. In these cases, permission for construction must be obtained under Order L-41 and the utility construction is governed by Order U-1-d. U-1-f covers utility extension where construction or renovation cost is under \$200, or where none is involved.

Another order, U-1-g, designed to simplify procedure, has also been issued by the OWU. U-1-g provides automatic certification for temporary connections of electric, water, and gas service. Such service is to be provided for temporary construction, business, and other activities. Setting up rigid rules, the order will relieve both the utilities and OWU of a great deal of paper work, so long as the extensions applied for meet requirements of the order. OWU also amended Paragraph e of Order U-1-c, to allow use of composite conductors on rural line extensions.

## PUBLIC UTILITIES FORTNIGHTLY

### Alabama

#### Water Utilities State Ruled

**W**ATER utilities generating electricity for other Alabama utilities are subject to control by the state public service commission, according to a ruling by Attorney General William N. McQueen.

Answering a query by Gordon Persons, associate member of the commission, the attorney general said in an opinion last month:

"A water utility company operating in this state under a certificate granted by the commission is not exempt from the provisions of the law so as to allow it to generate for or transmit electricity to another utility for the latter's use or for distribution by it."

#### "Gross" Charges Ended

**T**HE state public service commission last month ordered all gas utility companies in the state to remove the "gross" charge on monthly bills on and after September 1st.

The commission said the order applies to all bills rendered to residential and commercial users of gas by private utilities, but would not affect gas plants operated by a city since municipally owned companies are not under the commission's jurisdiction.

The order asserted that "in the past, every

gas and electric bill has shown two amounts, the highest amount being the 'gross' amount and the smaller amount being the 'net' amount. In the future, on gas bills dated September 1st and thereafter, only the lower or 'net' amount will be shown."

The past practice has been to require customers to pay the higher or "gross" amount if the bill was not paid within a 10-day period, the commission declared, adding:

"After September 1st, even though the bill is not paid within the 10-day period, the customer will continue to pay the smaller or 'net' amount, but will be subject, as in the past, to payment of a collector's charge if the utility is forced to actually send a collector to the customer's premises."

In a similar order, the commission recently removed the "gross" or "penalty" charge from monthly electric bills rendered by private electric utilities, but this order likewise did not apply to city-owned utilities.

Rate structures of Alabama gas utilities have also been "simplified," the commission's order said, asserting that in the near future each of the gas utilities will send to all customers a simplified billing chart which will make it possible to determine the exact amount of the gas bill by simply referring to the number of cubic feet of gas used.

### Arizona

#### Power Appeal Denied

**T**HE state corporation commission last month denied the application of the Tucson Gas, Electric Light & Power Company for a rehearing on the commission's recent order, effective September 1st, reducing the electric power rate for some 18,000 consumers in the aggregate sum of \$175,000.

Application for a rehearing was filed by the company after the state tax commission boosted the valuation of its property by \$1,200,000.

The utility company contended this increased its taxes by more than \$60,000 and

definitely affected the rate structure.

Investigations on which the electric rate reduction was ordered were instituted by the commission on its own behalf in September, 1942, Commissioner William Petersen said.

The tax increase was not established until after the rate cut order was issued, company attorneys pointed out in their application for a rehearing on the rate reduction, and thus the valuation increase was not taken into account when the rate cut was ordered.

The commission ordered the reduced rates on the ground that the company was using cheaper electricity generated on the Colorado river.

### Arkansas

#### Authorized to Lease Utility

**T**HE Arkansas Power & Light Company may lease the Citizens Electric Company of Hot Springs for thirty-two to thirty-five years with an option to purchase it for \$2,000,000 under an order issued by the state utilities commission on August 27th.

The contract approved by the commission called for the Arkansas Power & Light Company to pay a lease-rental of \$225,000 annually, \$25,000 of which will be placed in a depreciation reserve fund. Money accruing from the reserve will revert to the AP&L, if it exercises the purchase option.

The commission approved the arrangement



## THE MARCH OF EVENTS

with the understanding that it would not affect Hot Springs electric rates, the rate base of the property, or the rights of the city of Hot Springs to negotiate for acquisition of the utility before or after the execution of the lease, Chairman A. B. Hill of the commission explained.

The lease arrangement will not be affected if Gus B. Walton, Little Rock investment broker, is successful in his efforts to acquire Citizens Electric Company and two other Hot Springs utilities. The AP&L lease will be made with the Citizens Electric Company.

The Arkansas Company intervened on August 25th in a commission hearing on Mr. Walton's application, asserting it previously had negotiated to lease the electric company's facilities. The petition asked approval of the negotiations.

P. A. Lasley, former special lawyer for the state utilities commission, last month filed a motion with the commission on behalf of the city of Hot Springs, which was calculated to forestall the sale of three utility concerns at "exorbitant" prices.

The city of Hot Springs already had been authorized to intervene in the Hot Springs Utility Company's application for permission to issue \$3,750,000 in securities, the proceeds of which would be used by Mr. Walton to buy the three companies.

Involved in the negotiations are the Hot Springs Water Company, Citizens Electric Company, and Hot Springs Street Railway Company, which Mr. Walton desires to be merged into the Hot Springs Utility Company. The city opposed the plan on the ground that the purchase price might be used as a base for higher utility rates.

Mr. Lasley's motion asked the commission to require the company to make its application "more definite and certain," and pointed to seven particulars in which regulations of the commission had not been followed. Included in the motion was a demand that the company file a detailed inventory and appraisal of the property to be encumbered and a statement of the original cost.

## Limit on REA Co-op Sales Lifted

OVER the dissent of Chairman A. B. Hill, the state utilities commission recently moved to permit rural electric coöperatives to expand their services from farming areas to cities and towns.

Amending a July 13th order, the commission removed a clause prohibiting the government-financed Arkansas Valley Electric Coöperative from reselling the power it buys at cheap rates from the Oklahoma Gas & Electric Company in towns of more than 250 population.

When the original order was issued, the commission said the company's availability clause, which limited resale to towns of less than 250 population and industries with less than 30-kilovolt ampere capacity, was "a feasible method for the sale and distribution of energy to electric users" in the coöperative's area.

The restriction involving industries was not changed, but the commission said the provision limiting resale to towns of less than 250 population was "not conducive to the proper and legitimate expansion of rural electrification and does not provide a reasonable basis for difference in rates" between towns above and below that population figure.

Under the first order, the OG&E could have increased its charge for power distributed by the co-op in towns of over 250.

Chairman Hill charged that "all matters pertinent to the availability clause were given careful consideration by the department" before the July 13th order was issued, and said the company's lawyers had not presented additional facts.

In his dissenting opinion, Chairman Hill said "there is no good reason for saying a utility company cannot place a restriction of 250 population in a community in its availability clause. There does not even seem to be any general agreement as to the number of inhabitants in communities which are designated as rural."

## California

### Asks One-man Cars

THE Market Street Railway Company last month asked repeal of the initiative ordinance banning one-man street cars as the only means of solving the current man-power shortage in trolley transportation.

The company's request was made in a letter to the San Francisco board of supervisors which asked that the question of repeal be placed on the November ballot. It asked that one-man cars be operated on streets "other than Market street" for the duration or for

"such time thereafter as is necessary."

According to the company, the line is operating with 150 fewer platform men than are needed.

The letter declared the only way the man-power crisis could be met in so far as the rail company is concerned is by operating the one-man cars.

The letter cited the approval of such operation by the state railroad commission and the Office of Defense Transportation. Both groups, the Market Street Company said, have recommended one-man cars.



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### NWLB Grants Review

**T**HE National War Labor Board by unanimous vote on August 22nd granted the petition of the Amalgamated Association of Street, Electric Railway and Motor Coach Employees of America, AFL, requesting a review of the board's decision in the Los Angeles Railways & Motor Coach Lines Case, it was announced recently.

A tripartite division of the board, headed by Dean Wayne L. Morse, public member, will

conduct a public hearing in Los Angeles on the appeal in this case and the record made at the hearing will be considered by the full board in Washington at an early date thereafter, it was reported.

In granting the petition for review, the WLB made clear to the parties that its decision of July 23rd will stand unless and until modified by the board following a hearing on the merits. The hearing on the coast will include a consideration of the merits of street car railway wage problems for the entire California area.

## District of Columbia

### Agrees to Employ Negroes

**E**MPLOYMENT of Negroes as bus and trolley operators has been agreed to by the Capital Transit Company in a letter to the Fair Employment Practices Committee, the Committee

on Jobs for Negroes in Public Utilities revealed recently.

Monsignor Francis J. Haas, FEPC chairman, assured the committee that every step possible was being taken to effect the new employment policy.

## Georgia

### WLB Approves Increases

**A**N established new pay rate permitting increases of from \$3 to \$15 per month for 1,237 employees of the Georgia Power Company whose pay now ranges from \$84 to \$228

per month was approved last month by the fourth regional War Labor Board.

Making the new pay retroactive to March 1st, the board said the increases would depend on the job classification and length of service of employees.

## Iowa

### No Immediate Rate Cut Seen

**D**ES MOINES has no immediate prospect of any reduction in gas or electric rates, C. A. Leland, president of the utilities in that city, said recently. The power- and gas-producing companies will pass on to consumers savings which materialize sufficiently through a newly approved sale and consolidation, but any such economies would not develop soon, he said.

Sale of the Des Moines Electric Light Company and the Iowa Power & Light Company of Des Moines to the Continental Gas & Electric Corporation was approved last month by the Securities and Exchange Commission.

Also approved by the SEC was consolidation of the Des Moines properties and the Iowa-

Nebraska Light & Power Company properties in southwestern Iowa.

City Solicitor Fred T. Van Liew reported in July on returning from an SEC hearing conducted in Philadelphia, to determine whether the sale and consolidation should be approved, that Continental representatives made a possibility of lower rates a major point of argument. Evidence was presented, Van Liew said, to indicate that the reorganization would result in "very great economies in operating and financing" and that they would be passed on to the consumer.

Leland said Van Liew's statements were true, but "there is no chance of the economies being accomplished in a reasonable length of time." Broadly, the principal factor is the war, the utility executive said.

## Kentucky

### Electric Rates Cut

**F**RANKFORT consumers will pay approximately 15 per cent less for electric current  
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beginning October 1st on their September bills under new rates approved by the city council on August 24th. The reduction, not so low as the 22.3 per cent recommended last year by

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the state public service commission, followed purchase by the city of the local electric and water plants for \$1,200,000.

The new rates will be \$1 for the city residents and \$1.25 for those outside the city for the first 20 kilowatt hours used, instead of for the first 15 under the old rates.

Municipal operation of Frankfort's electric and water systems began on August 20th. Roger Adams, board treasurer, said steps

would be taken immediately to refund an estimated \$54,000 in impounded funds to electric consumers. The money was impounded under court order after Tri-City Utilities Company contested a rate cut ordered last December by the state commission.

Harold K. Hines, former manager and president of Tri-City, was named by the board to manage municipal operations at a salary of \$6,000 a year.

## Louisiana

### Blocks Construction

STATE authorities learned recently that they have succeeded in carrying out the mandate of the Louisiana legislature against construction of new natural gas pipe lines by blocking permission for a 20-inch line from south Louisiana fields to Kentucky.

Governor Sam Jones said the Tennessee Gas & Transmission Company had amended its application before the Federal Power Commission, saying it had been unable to secure gas from south Louisiana and now planned to

obtain gas for transmission from Texas, near Corpus Christi.

Permission for the line had been granted by the Federal Power Commission contingent on the company's ability to show by September 8th, when a further hearing was scheduled in Washington, that it had contracted for gas supplies for the line.

Governor Jones disclosed that he had made an appeal to the Louisiana gas producers to decline to furnish gas from this state but to conserve Louisiana gas to develop industries within the state.

## Maryland

### WLB Approves Overtime Plan

WITH its labor members dissenting, the WLB last month approved an application by the Baltimore Transit Company to institute a system of time-and-a-half pay for overtime work performed by some 3,000 of its 3,565 employees. The board deferred action on the request for permission to inaugurate an over-all wage increase the board said would amount to 5 cents an hour.

Company officials said both the wage increase and overtime applications were retroactive to January 1st and that, in anticipation of their approval by the WLB, the company had built up between January 1st and July 31st a reserve fund of \$503,800. They estimated

that the overtime system alone would consume in back pay to January 1st approximately \$300,000 of that reserve fund.

A board spokesman said the action in the company's application was supported by its public and employer members. Its labor members, he added, dissented on the ground that, since a union exists among the company's employees, negotiations between the company and the union should have been made a condition precedent to the board's action.

The board majority, the spokesman said, took the position that, since the union has not been certified as the collective bargaining representative of the company's employees, it was proper to act on the sole basis of the company's application.

## Michigan

### Fare Jump Faces Suit

UNLESS suburban bus fares are reduced voluntarily by Great Lakes Greyhound Lines, Inc., the Office of Price Administration will seek a Federal court order requiring the company to restore the lower fares which were in effect until August 16th.

This warning was given the bus company

by A. D. Rueggsegger, chief OPA enforcement attorney in Detroit.

The company last month canceled the "excursion rates" which had been in effect eighteen months, returning to a fare schedule that, in some cases, meant a 100 per cent increase in transportation costs between Detroit and its suburbs.

Rueggsegger told Charles Porritt, attorney

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for the company, that Greyhound had ignored a provision of the Second Price Control Act which, he said, required the company to give thirty days' notice of the revised tariff. Porritt,

however, took the position that the company was not bound to notify OPA because it merely was returning to the old higher rate previously filed with the state public service commission.

### Mississippi

#### Book Valuation Slashed

THE Mississippi Power & Light Company of Jackson was recently ordered by the Federal Power Commission to dispose of approximately \$13,000,000 in allegedly inflated book valuation. The commission accused the firm of "dilatatory and obstructive action" in connection with studies of the matter, and said the valuations "resulted from write-ups and other excesses over original costs."

Book valuations form the basis for deter-

mining rates charged by utilities, so higher charges prevail if values are inflated, the commission explained.

The order would effect a write-down of about 38 per cent in the amount claimed by the company as representing the original cost of its properties, the commission said.

The company also was ordered to file with the commission within four months revised reclassification and original cost studies with respect to the \$21,000,000 remaining in other accounts on the company's books.

### Nebraska

#### To Probe Dispute

THE state legislative council voted last month to direct its public power committee to investigate all circumstances in connection with the controversy in Omaha over LB 204, the Omaha People's Power Commission bill.

The resolution said that the council "directs its committee on public power to proceed at once with an investigation of the circumstances surrounding LB 204 and the power situation generally in the metropolitan areas as 'defined in 204.'"

The council did not approve a resolution offered by State Senator Sidney Cullingham, Omaha, which called for appointment of Assistant Attorney General Rush Clarke as an investigator. Council members said they believed the resolution was too specific, and left procedure up to the power committee.

Senator C. Petrus Peterson, Lincoln, told the council he wanted the committee to investigate whether information being given to the public was accurate. The council, he added, should advise the people of Omaha as to the accuracy of the information and the committee should look into motives of those supplying information. Nebraska Power Company supporters

were reported circulating petitions asking that a special election be held in Omaha to determine whether municipal ownership of the power company is desired.

President Davidson of the power company said the company is not compelled to sell its property and that it does not want to do so.

#### Power Rates Cut

A REDUCTION in electric rates designed to save Nebraska City residential and commercial users an estimated \$6,373 during the coming year was announced last month by Dan Hill, local manager for the Consumers Public Power District.

The reduction, effective with the September 1st billing, amounts to \$3,700 or 6.15 per cent for residential users and \$2,673 or 5.9 per cent for commercial users on an annual basis, Hill said.

Consumers said the reduction was in line with the district's policy to pass along savings in the form of rate reductions whenever possible. Hill said it was the second reduction for Nebraska City under Consumers' ownership, with the first given in April, 1941, amounting to about \$7,200 a year.

### New York

#### Strike Notice Withdrawn

A NOTICE of intention to strike, filed by employees of the Kings County Light and Power Company with the National War Labor Board under provisions of the War Labor Disputes Act, was withdrawn on August 25th following

a conciliation hearing at which the company agreed to reinstate a union official who was dismissed on August 14th.

Oliver Harper, counsel for the Utilities Workers' Organizing Committee of the CIO, said an "amicable adjustment" had been made with the reinstatement of Benjamin Charlton,

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president of the clerical division of an independent union, to his job as chief of stores.

The strike notice had been filed with the NWLB by the physical workers' division of the union, which became affiliated with the CIO last month.

### Rural Extension Plan

**A** LIBERALIZED rural electric line extension plan to assist rural customers in their wartime food production efforts was filed last month by Niagara Hudson system companies with the state public service commission, it was announced by Earle J. Machold, president of Niagara Hudson Power Corporation.

The plan originally was intended as a part of the system's postwar program for completing the electrification of its rural territory, but it has been decided to make the liberalized

plan available now in view of the critical food situation.

Thus many farmers who are not now enjoying the benefits of electricity may more readily obtain service to offset the farm labor shortage through the use of electricity in the operation of farm equipment for poultry raising, for milk production, and for general farm needs.

Under the new plan, farmers living within the area served by the Niagara Hudson system, whose farms meet the requirements established by the War Production Board, may obtain rural electric service by paying a minimum monthly charge of \$2. This meant a reduction to a number of farmers paying minimum monthly charges in excess of \$2. After a farmer has taken service for a period of five years his minimum monthly charge is reduced to the regular service classification.

## Pennsylvania

### No Gas Rate Rise This Year

**T**HERE will be no increase in the gas rate for at least another year, Acting Mayor Bernard Samuel of Philadelphia announced recently. He said increased business would enable the Philadelphia Gas Works Company,

operator of the city-owned plant, to absorb additional costs of manufacture during the fiscal year starting September 1st.

Samuel's announcement followed discussions with officials of the company and members of the gas commission. A threatened increase last spring was averted by the OPA.

## Tennessee

### Seeks Use of Power Revenues

**A**UTHORITY of the TVA to impose upon municipalities purchasing power from the Federal agency, restrictions against using electric revenues for payment of general obligation bonds was challenged on August 27th by Lenoir City. The Tennessee municipality was the first of the many government subdivisions in the Tennessee valley using the authority's current to deny, in the courts, this phase of TVA operations.

Lenoir City entered its challenge in Federal court in Knoxville by way of an answer to a suit filed June 1, 1943, by TVA in which the authority asked the court for a judgment declaring that the action of the municipality in attempting to pledge its electric system revenues to the payment of principal and interest on general obligation bonds, and to charge

rates sufficient to meet these obligations, was a violation of the city's power contract with TVA.

The Lenoir City contract is a standard one hence the issue raised is one affecting all municipalities and other governmental subdivisions buying current from TVA. Since Lenoir City, by its answer, insisted TVA has no power to require electric revenues be used solely for retirement of bonds issued for purchase or construction of electric systems, a victory for the municipality would invalidate this part of all the contracts and leave cities in position to make much wider use of money from their distribut on systems.

The authority itself pointed out, when it filed the suit against Lenoir City, that if it permitted the action of Lenoir City to "go unchallenged it would seriously affect the authority's power program."

## Texas

### Reports on Brazos Set-up

**A** STATE senate committee which investigated the financial operations of the Brazos

River Conservation and Reclamation District last month submitted its findings without recommendations or comment except to say that it refused to permit the investigation to

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be used as a sounding board for the broadcast of opinions and arguments and that interested persons could read the report and draw their own conclusions.

According to the committee's presentation, the district refused to sell the Possum Kingdom dam power to a private utility, Texas Electric Service Company, at an original loss of \$96,000 and an annual loss of \$84,075, yet its vendee, Brazos River Transmission Cooperative, resold the power to Texas Power & Light Company, a public utility, for \$300,000

a year with an additional \$23,000 net. This was in comparison to the \$203,925 to be paid in the district annually by the cooperative. However, the cooperative set up a budget, reproduced in the report, to show it would make no profit.

Texas Electric's offer amounted to \$288,000 annually, the report averred, but it was rejected without having been submitted to the Federal Power Commission, and it accepted the cooperative's proposal of \$203,925 payment, not to begin until after the initial delivery.

## Utah

### Votes Permanent Organization

**A**n important step toward assuring Utah uninterrupted power service in years to come was taken recently when the Utah War Emergency Power Association, composed of practically every public and private utility in Utah, voted during an all-day session to become a permanent organization.

Action was taken because of benefits apparent from the pooling of available resources of equipment and man power since the association was formed in February, 1942, officials of the association said.

The group installed J. Hamilton Calder of Provo as president to succeed Heber C. Maughan of Logan, who had served during the past year and a half. L. W. Nims and E. M. Naughton, both of the Utah Power & Light Company in Salt Lake City, were re-elected to serve as secretary and assistant secretary, respectively. Rulon Baron of Brigham City is vice president of the association.

Mr. Calder is chairman of the Provo city electric utilities board.

### Directed to Alter Books

**T**HE Federal Power Commission last month announced its order and opinion directing the Utah Power & Light Company, Salt Lake City, to dispose of more than \$27,000,000 resulting from "write-ups and other improper charges" and to submit to the commission, within six months, revised reclassification and original cost studies with respect to the remaining \$56,500,000 in other accounts.

Of the total amount of \$27,000,603, the order directed that \$26,434,849, established as write-ups, be charged to earned surplus, with the proviso that the light company may eliminate all or part of that amount by a charge to a capital surplus created through a write-down of its common stock.

According to the commission, the transactions primarily responsible for the inflation recorded in the company's books arose out of 11 transfers of properties to Utah Power & Light Company by its affiliates, Electric Bond and Share Company, Utah Power Company, Utah Securities, and Electric Power & Light.

## Washington

### FPC Approves Contract

**T**HE Federal Power Commission last month announced its approval of a revised contract between Public Utility District No. 1 of Clark county and the Federal Public Housing Authority which will reduce the cost of electric service for the \$70,000,000 Vancouver housing project at Vancouver by \$41,805 annually, based upon a year's operation of the completed housing project with 90 per cent occupancy.

The revised contract, which was submitted for review pursuant to the President's directives of September 26 and October 22, 1942, fully incorporates the suggestions made by the commission's staff during conferences with representatives of the PUD and the FPHA held last May. These suggestions were that the revised contract provide for (1) the sale

of power to the housing project at the Bonneville F-2 rate (the same rate at which the PUD purchases from Bonneville); (2) the allowance of a 6 per cent return upon the cost of the transmission facilities purchased by the PUD from the authority; (3) amortization of these facilities upon a 6 per cent sinking-fund basis; (4) 25-year amortization of facilities used to serve permanent housing property; (5) 5-year amortization of facilities used to serve temporary housing property; and (6) an allowance for operation, maintenance, general, and administrative expenses, and taxes.

These provisions are in conformity with those approved by the commission in connection with other war power contracts for services furnished both by privately owned and publicly owned utilities.



# The Latest Utility Rulings

## Reproduction Cost Criticized and Depreciation Explained in Rate Decision



A REDUCTION in rates for gas was ordered by the Pennsylvania commission in an opinion dealing with various rate factors. Among other things, the commission criticized reproduction cost estimates, explained depreciation principles, considered so-called "expensed" property, disallowed various working capital claims, and allowed a return of  $6\frac{1}{2}$  per cent on the fair value of the company's property.

A reproduction cost estimate, said the commission, does not accomplish the purpose of showing present value. Just as price levels change as time progresses, said the commission, so also does the art of serving natural gas or of performing any other service. Improved machines, with lower first cost and less expensive operating characteristics, push into obsolescence the earlier models.

Commenting on the subject of depreciation, the commission said in part:

All articles eventually wear out or otherwise become worthless, but they do not become so at the same rate. Probably the shortest life span occurs in the case of fuel, which becomes worthless as soon as it is put to use. On the other extreme may be cited the case of cast iron pipe, some of which is

still in use hundreds of years after it was laid. Between these two limits lies the life span of practically every article familiar to us, and of every item of equipment owned by respondent.

As a matter of custom and convenience, said the commission, the business world uses the year as its period for review of its affairs, and any article used up during the year is charged off as a loss (an expense), but any article which is only partly used and which still has some utility is carried forward as something owned into the next year. To record the partial loss already experienced, provision is made for depreciation. Continuing, the commission said:

... wasting articles are all, in fact, property, and their segregation into the categories of assets and expenses is a function of the accounting period, and not evidence of any fundamental distinction in their natures. . . .

The whole problem of depreciation centers about the impossibility of stating a qualitative change in quantitative terms. The problem attaches to every one of respondent's assets except land and gas in the ground.

*Public Utility Commission v. Manufacturers Light & Heat Co. (Complaint Docket Nos. 11380, Sub 18, 13565).*



## Right of Municipality to Intervene in Rate Inquiry

THE order of the Pennsylvania commission in *Pittsburgh v. Manufacturers Light & Heat Co.* (1942) 45 PUR(NS) 478, dismissing a rate complaint of the city of Pittsburgh for lack of prosecution, has been sustained by the superior court. Although the city's complaint "touched off" the commission's

subsequent proceedings on its own motion to investigate rates, the court did not consider that the city was in a position different from that of any other of the large number of consumers served by the utility involved.

The court thought the solution of the problem whether the commission had

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abused its discretion in dismissing the complaint depended upon the more fundamental problem whether the commission had abused its discretion in refusing the city's motion for intervention or consolidation. As stated by the court,

If the commission was bound to merge the proceedings, it clearly had no right to eliminate appellant until it adjudicated the merits. If, on the other hand, the commission's action in refusing the merger should be sustained, appellant is in the position of having filed a complaint in June, 1941, pursuant to which it had taken no steps whatever until the commission's order dismissing it was filed on June 16, 1942.

In our opinion, there is nothing in the Public Utility Law or in the decisions construing it which requires the commission to

permit appellant to intervene in the commission's proceedings and the order of the commission must be affirmed.

The notion is prevalent that a municipality has the right to intervene and represent its citizens in every rate inquiry affecting them. But the Public Utility Law reposes the responsibility for the regulation of utilities and the preservation and protection of the rights of the public involved in the commission, not in municipalities. Questions of procedure, including the question whether parties should be allowed to intervene in one another's proceedings, are subordinate to the paramount functions of the commission and should be left to its discretion so long, of course, as it observes the basic requirements designed for the protection of private as well as public interest.

*Pittsburgh v. Public Utility Commission.*



### Cost Determination of FPC Affirmed by Federal Court

To justify an allowance of interest during construction as part of the cost of a licensed project under the Federal Power Act, according to a Federal court ruling, it must appear that the licensee carried out its obligation, which is a term of the license, to prosecute the construction with due diligence. In so holding the court sustained the action of the Federal Power Commission in excluding interest up to the time of actual completion of a licensed project.

The company took the position that the unsettled financial conditions of the years 1930 and 1931 made it advisable to delay completion of the project. The court, however, declared:

There is nothing in the act or in the license which justifies such an interpretation of the obligation of the licensee to prosecute the construction of a Federal power project

with due diligence. To permit interest to be added to costs where the sound business judgment of the licensee counsels delay in order to improve its financial position is to allow an element of pure speculation to be included in net value.

With respect to fees paid to an affiliate, it was held that only actual cost could be included in the net value of the project. The commission's disallowance of contingent salaries paid to a small percentage of the employees of an affiliated construction company was upheld on the ground that, based on a percentage of net earnings of the corporation, they were a share in the profits of the affiliate. These were distinguished from ordinary bonuses. *Puget Sound Power & Light Co. v. Federal Power Commission* (No. 8401), affirming (1942) 45 PUR(NS) 237.



### Power Commission Rules on Rate Factors In Ordering Interim Reduction

In a proceeding under the Natural Gas Act involving the reasonableness of interstate wholesale natural gas rates of Cities Service Gas Company, the Federal Power Commission allowed a  $6\frac{1}{2}$  per

cent return on original cost. An interim order was entered effecting a substantial reduction in rates in which certain matters at issue were resolved in favor of the company pending further consider-

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ation. It was believed that this would provide a basis upon which the company could secure adequate supplies of gas to meet the war emergency.

The commission rejected claims for fair value substantiated by evidence of reproduction cost. It was said to be apparent that § 6(a) of the Natural Gas Act authorizes the ascertainment of the actual legitimate cost of the property, and only when found necessary for rate-making purposes the ascertainment of the fair value of such property.

The evidence was said to be clear as to actual legitimate cost. Moreover, the

company's estimates of reproduction cost and so-called "fair value" were said to be at best synthetic figures not taken from the books and records and not purporting to be actual cost or investment.

It was said to be incumbent upon the company to show the reasonable cost of services furnished by an affiliate as "ratepayers are not required to pay a return" on intercompany profits. Nevertheless, the commission included the full amount of fees for the purpose of the interim order and reserved final action. *Re Cities Service Gas Co. (Opinion No. 95, Docket No. G-141).*



### Regulatory Provisions of Franchise Disapproved by Commission

A CERTIFICATE to exercise rights and privileges granted by a city was issued by the California commission subject to conditions intended to retain exclusive commission jurisdiction over regulatory matters. The commission found that public convenience and necessity required the exercise of the franchise ordinance with the exception that public convenience and necessity did not require the exercise of any provision purporting to regulate operation, service, and rates, or any matter within the exclusive jurisdiction of the commission.

A city, within the scope of its jurisdiction, said the commission, may impose such requirements, restrictions, and conditions pertaining to occupancy and use of streets as in its judgment may be necessary and reasonable. The city may also require the payment of a money consideration as compensation for use of streets. The commission continued:

In these matters the authority of the city is exclusive and paramount, and this com-

mission desires to stay scrupulously within the bounds of its own jurisdiction and not directly or indirectly encroach upon the jurisdiction of the municipality. On the other hand, the law of this state places upon this commission the exclusive regulatory authority over utility operation, service, and rates, and the city is left without jurisdiction in such matters. We think the municipal subdivisions of the state should be equally concerned not to encroach upon this clearly defined jurisdiction of the commission.

Nor is this a question merely of legal construction; the public interest is involved in important particulars. If some cities were to impose unnecessary and costly franchise conditions burdening the operation and service of the utilities inside and outside of the cities' boundaries, such added costs would inevitably result in increased utility capital and operating expenses and in higher rates. The supply to the public of the best possible utility service at the lowest possible cost and at the lowest reasonable rates is in the first instance the responsibility of the private utility's management and, beyond that, the exclusive responsibility of this commission.

*Re Southern California Edison Co., Ltd. (Decision No. 36450, Application No. 25458).*



### Additional Time for Response to FPC Accounting Order Denied

UPON the response of Mississippi Power & Light Company to an order of the Federal Power Commission

directing it to show cause why the commission should not take certain steps because of the company's failure to com-

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ply with the requirements of the Uniform System of Accounts, the commission concluded that the company had not made a response as called for by the order and therefore should not be granted additional time.

The commission reviewed the history of its attempts to secure compliance and the company's submission of reclassification studies, at first incomplete and later subject to a reservation of the right to amend them in whole or in part. The effect of the purported reservation, said the commission, was a failure of compliance with the requirement that the company submit original cost and reclassification studies. Submission of figures with a "reservation" of the right to change the figures was said to be a nullity.

The order to show cause which had been issued was directed primarily against "write-ups of plant account and other items not properly includible in plant account." The company asserted that it needed additional time to go into records of a predecessor and cost of acquisition of property by its parent company. It did not, however, according to the commission, admit or deny various claims which might have been disposed of. The commission continued:

We conclude that no additional time should

be granted Mississippi to complete further studies before answering the show-cause order and that the response which has been made should be judged accordingly. So judged, it raises no issues requiring a hearing. From Mississippi's failure to discharge the burden of sustaining the accounting entries questioned, we are justified in inferring the truth of the recitals in our order of April 27th. Mississippi has, by its own deliberate choice and with knowledge of the alternatives and full appreciation of the consequences, brought itself to its present position.

In repeatedly choosing to defy rather than comply with requirements legally applicable to it, the company has deliberately placed itself in the position it now occupies. If it now has insufficient information to deny the allegations of our order, that is only true because Mississippi has deliberately chosen that it should be true. By putting or allowing books and records to be placed beyond its reach, by refusing to make studies which would reveal the truth with respect to its accounts, by closing its eyes when it was its duty to keep them open, Mississippi has sought to "protect" itself against having to admit the pertinent facts. If Mississippi does not know the facts necessary to enable it to deny the allegations, it is because it has chosen to make lack of knowledge its defense against obeying the law. Such a course of conduct in itself may speak more loudly than volumes of additional studies.

We therefore conclude that the steps contemplated by our show cause order are minimal requirements which should be imposed now.

*Re Mississippi Power & Light Co.  
(Opinion No. 98, Docket No. IT-5824).*



### Selection of Single Integrated System Under Holding Company Act

THE Securities and Exchange Commission, in a proceeding under § 11(b)(1) of the Holding Company Act involving the Cities Service Power & Light Company and its subsidiaries, has ruled that where registered holding companies in such proceedings fail to indicate a choice of the single system to which they desire to be limited, the commission will base its opinion upon a single integrated system under the control of such companies and give such companies further opportunity to indicate a choice of any other single system.

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Where the record permits the procedure, no undue complexity is involved, and the commission believes that such a procedure will be conducive to expeditious compliance with § 11(b)(1), the commission in its discretion will indicate what additional systems and what non-utility interests may be retained in connection with alternative single systems under holding company control. The commission does not believe that compliance with the act or effective procedure is promoted by issuing an order which does not in terms require any divestment

## THE LATEST UTILITY RULINGS

but rather "permits the exercise of a leisurely choice by the respondents."

Concerning retention of gas properties as a system additional to an electric utility system, the commission observed that since the gas and electric operations were conducted in the same state, retention of the gas properties would not violate Clause (B) of § 11(b)(1); but the (A) (B) (C) standards were said to be cumulative. All must be satisfied before retention may be permitted. The record in the proceeding did not afford sufficient proof of substantial economies, interpreted by the commission as meaning "important" economies. The commission provided an opportunity for presentation of further evidence on this issue.

As to the retention of nonutility properties, the commission said:

We have noted in previous opinions that

unless economies resulting from joint use of personnel are economies in the operation of an integrated utility system or systems, they have little bearing on the question of retention. The fact that a completely unrelated business enjoys certain advantages from its connection with a utility business is irrelevant in determining whether the non-utility business is "reasonably incidental, or economically necessary or appropriate" to the utility business. Conversely, some advantages in common use of personnel may be found resulting to utility operations from their connections with even the most unrelated types of properties.

A steam-heating business serving steam exhausted from generators was found to be retainable, but water, water-heating, ice, cold storage, traction, and other businesses not found to be related to utility operations were held not retainable. *Re Cities Service Power & Light Co. et al.* (File No. 59-7, Release No. 4489).



### License for Power Project Held Necessary

THE Federal Power Commission determined that the Menominee and Michigan rivers are navigable waters within the meaning of the Federal Power Act, that a power development on the Menominee river is an essential and integral part with another development of the Wisconsin Michigan Power Company, and that a license is necessary for such project. The definition of "navigable waters" in the act, said the commission, makes use or suitability for use for the transportation of persons or property in interstate commerce a controlling criterion.

That the floating of logs in the course of a continuous movement from one state to another is interstate commerce, the commission continued, has been long and consistently recognized by the Supreme Court and also by acts of Congress.

There was said to be nothing in either the Federal Power Act or in the long history of judicial interpretation of the Commerce Clause that requires a showing of the employment of vessels or watercraft. *Re Wisconsin Michigan Power Co.* (Opinion No. 94, Docket No. DI-155, Project No. 1759).



### Commercial Electric Rate Revision Approved

AN application for authority to revise rate schedules for commercial lighting, commercial heating and cooking, and commercial power service was approved by the Wisconsin commission in order to simplify the utility's rate schedules, to cure discrimination, and to

reduce rates to a majority of the commercial customers. It was testified that 91 per cent of the customers would benefit from the proposed revision and 9 per cent, mostly served under obsolescent hours' use schedules, would be adversely affected.



## PUBLIC UTILITIES FORTNIGHTLY

Under the hours' use type of rate, said the commission, a change in the rate is required with each change in the connected load of the customer. Difficulty is experienced in keeping such rate schedules currently correct because in recent

years the introduction of more complete lighting and the use of more appliances have resulted in frequent changes in the connected load of the average customer. *Re Wisconsin Power & Light Co. (2-U-1908).*



### Pennsylvania Utility Permitted to Acquire Additional Facilities

THE Federal Power Commission authorized the Pennsylvania Electric Company, Johnstown, Pennsylvania, to acquire all of the utility assets and facilities of the Keystone Public Service Company, Oil City; Bradford Electric Company, Bradford; and Erie County Electric Company, Erie, all in western Pennsylvania, and to merge the facilities of these companies with those of Penelec. In considering the effect on the public interest, the opinion stated that these mergers should result in certain economies due to the simplification of corporate structures, records and reports, and elimination of uneconomic duplication of facilities.

The consideration to be given by Penelec for the assets and facilities to be acquired from Keystone is represented by the issuance and delivery to Keystone of 20,898 shares of Penelec's \$20 par common stock; in addition, Penelec will assume the payment of all Keystone's debts and liabilities, including its funded debt in accordance with its terms and including the liability to be incurred by the call of all Keystone's outstanding \$2.80 cumulative preferred stock. The transaction is subject to the acquisition by Associated Electric Company, parent of Penelec, from NY PA NJ Utilities Company of all the common stock of Keystone and 1,572 shares of the cumulative preferred stock of Keystone and the donation to Keystone of the 1,572 shares. Upon completion of the transaction the 20,898 shares of Penelec common to be issued to Keystone will be transferred to Associated and Keystone dissolved.

Consideration to be given for Bradford's assets and facilities involves the assumption by Penelec of all Bradford's liabilities and the surrender for cancellation of all of Bradford's outstanding common stock. Penelec is to surrender to NY PA NJ \$1,731,500 principal amount of NY PA NJ 5 per cent debentures and \$28,500 principal amount of Mohawk Valley Company 6 per cent consolidated refunding bonds.

Penelec proposes to acquire from United Gas Improvement Company, parent of Erie County, all of the stock of Erie County at a total cost of \$6,921,500 as of January 1, 1943, with a further contingent cost to Penelec of a sum not in excess of \$215,559. With adjustments to February 28, 1943, the proposed consideration amounts to \$6,895,484.03, and including the contingent cost the maximum consideration amounts to \$7,111,043.03. The net assets to be acquired per books, as of the above date, were \$4,055,939.72. Thus the excess of consideration over net assets acquired amounts to \$3,055,103.31. Penelec advised the commission that it was willing to create out of capital surplus a special reserve in the amount of \$3,055,103.31 and to charge immediately against such reserve \$2,349,999.81, the difference between consideration and net original cost of the assets. "This proposal removes any objection which we might otherwise have had with respect to the accounting for the transactions," the commission's opinion stated. *Re Pennsylvania Electric Co. et al. (Opinion Nos. 100, 102. Docket Nos. IT-5789, IT-5804, IT-5828).*

NOTE.—The cases above referred to, where decided by courts or regulatory commissions, will be published in full or abstracted in *Public Utilities Reports*.

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# Public Utilities Reports

COMPRISING THE DECISIONS, ORDERS, AND  
RECOMMENDATIONS OF COURTS AND COMMISSIONS



VOLUME 49 PUR(NS)

NUMBER 4

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RE UTAH POWER & LIGHT CO.  
UTAH PUBLIC SERVICE COMMISSION

Re Utah Power & Light Company et al.

[Case No. 2652.]

*Consolidation, merger, and sale, § 4 — Transaction as "acquisition" or "merger."*

1. A transaction whereby one corporation acquires all the property and assets of another corporation, assumes or forgives all indebtedness, cancels the stock of the other corporation, and completes its dissolution, involves a merger or consolidation and not merely an acquisition of property and assets, p. 197.

*Consolidation, merger, and sale, § 13 — Necessity of Commission approval — Merger or acquisition.*

2. A transaction whereby one corporation proposes to acquire all the property and assets of another corporation, assume or forgive all indebtedness, cancel the other company's stock, and complete its dissolution, whether treated as a merger or consolidation, or only an acquisition of property and assets, is subject to the provisions of Chap. 27, Laws of Utah, 1943, and the companies must obtain the consent and approval of the Commission, p. 197.

*Consolidation, merger, and sale, § 12 — Jurisdiction of Commission — Foreign incorporation.*

3. The Commission may, under Chap. 27, Laws of Utah, 1943, approve a merger or consolidation of a utility formed under the laws of Utah with a utility incorporated under the laws of another state, without restriction as to the companies being of the same kind, engaged in the same general business in the same vicinity, p. 198.

*Consolidation, merger, and sale, § 6 — Duties of Commission — Terms and conditions.*

4. The Commission is duty bound to inquire into the proposed terms and conditions of a contemplated merger or consolidation and to determine how such terms and conditions will affect or may affect the rates, rules, or practices of the consolidated utility or its regulation by the Commission under applicable statutes, p. 198.

*Accounting, § 4 — Duties of Commission — Uniform system.*

5. The jurisdiction of the Commission over the accounts of public utilities, conferred by § 76-4-22 of the Utah Code Annotated, 1943, carries with it the responsibility to see that financial reports, based on the established system of accounts, are prepared in such a manner as clearly to disclose all significant facts, and it is the plain duty of the Commission to require that the accounts be stated in the manner prescribed by the Uniform System of Accounts, particularly when a company is seeking to secure a large amount from the public for refunding securities, p. 201.

*Consolidation, merger, and sale, § 62 — Consideration of accounting questions.*

6. The Commission, in approving a merger or consolidation of public utilities, should not ignore the accounting entries they propose to make and the consolidated balance sheet they propose to present to the public and have presented to their stockholders, to the Commission, and to other commissions, p. 201.

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### *Consolidation, merger, and sale, § 23 — Public benefit — Expediting refinancing program — Accounting.*

7. A merger or consolidation of a wholly owned subsidiary with the parent corporation, operating the subsidiary's property under a long-term lease agreement and obligated on its bonds, was held not to be adverse to the public interest, provided that plant accounts, revenues, operating expenses, and other accounts were properly recorded and maintained, but was held to be of benefit to the public since it might expedite a refinancing program, p. 204.

### *Accounting, § 43 — Merged subsidiary — Plant accounts — Cost basis.*

8. A company merging a wholly owned subsidiary should not record the amount of plant accounts of the merged company, increased by the parent's book investment in the subsidiary's common stock in excess of par value and decreased by the surplus of the subsidiary, in Account 100.6, Utility Plant in Process of Reclassification, to be distributed to plant accounts or otherwise disposed of at some later date, since the Uniform System of Accounts requires that plant accounts shall be charged with the cost to the utility of the property acquired, p. 205.

### *Accounting, § 43 — Merged companies — Plant accounts.*

9. After accounting entries to reflect merger or consolidation eliminations, adjustments and entries should be made, as a condition of approval of a merger of a fully owned subsidiary with the parent, to adjust the accounts of the individual companies to a common and uniform basis of cost as prescribed by the Uniform System of Accounts, and assets of the surviving company should not be stated at an amount which exceeds the proper totals for both companies individually, p. 207.

### *Accounting, § 56 — Intercompany profits and write-ups.*

10. Intercompany profits and write-ups which have been inscribed in plant accounts at the direction of a holding company, through the use of dummy intermediaries, paper corporations, and the shuffling of properties, securities, and cash among associated companies, should be consistently eliminated, and in considering transactions among the associated companies the Commission must look beyond the veil of corporate fiction in order to ascertain actual cost, p. 207.

### *Accounting, § 24.1 — Fee to affiliate — Intercompany profit.*

11. A fee paid to an affiliated company, which is admittedly an intercompany profit, does not represent actual plant cost and is properly classified in Account 107, Utility Plant Adjustments, p. 208.

### *Accounting, § 21 — Preferred stock expenses — Affiliated finder's fees.*

12. Preferred stock expense, representing "finder's fees" paid to an affiliate for "finding" its parent as the purchaser of preferred stock, and other expenses and commissions paid in connection with the sale of preferred stock should not be included in plant accounts as organization expense when the expenditures were made years after the company was organized and in such successful operation, particularly where no evidence is produced that the "finder's fees" were not intercompany profit, but the entire amount should be temporarily classified in Account 151, Capital Stock Expense, or Account 107, Utility Plant Adjustments, pending further study for the purpose of ascertaining to what extent these amounts represent actual cost, p. 208.



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### *Accounting, § 29.1 — Organization expense — Estimate of additions.*

13. An estimated amount of organization expense should not be added to plant accounts when the accounts include all of the organization expense actually incurred, p. 208.

### *Accounting, § 56 — Write-up — Merger of subsidiary.*

14. An amount properly classified as write-up (Account 107) on the books of a wholly owned constituent company cannot be converted to a system cost (Account 100.5) on the books of the surviving parent company after a merger of the subsidiary, p. 208.

### *Accounting, § 43 — Merged companies — Intercompany elimination — Investment in stocks.*

15. The common stock of a wholly owned subsidiary and the investment in common stock of the subsidiary as shown on the books of the parent company must, in the process of recording and reflecting a merger or consolidation, be canceled as an intercompany elimination, p. 209.

### *Accounting, § 56 — Adjustment to dispose of write-up — Creation of capital surplus — Surrender of common stock.*

16. A proposed capital surplus adjustment by creating a capital surplus through the surrender of common stock was held to be a fair and reasonable method to dispose of a write-up associated with the issuance of the common stock, in view of the fact that preferred stock represented actual investment and its dividends were in arrears, while the stated value of the common stock was merely an amount offsetting a write-up in plant and not actual investment, p. 209.

[July 17, 1943.]

**A**PPPLICATION for consent and approval of the acquisition by a parent company of all the property of a subsidiary; application (treated as an application for approval of consolidation or merger) approved subject to conditions.

**APPEARANCES:** Paul H. Ray, for Utah Power & Light Company and Utah Light and Traction Company; S. J. Quinney, for Utah Power & Light Company and Utah Light and Traction Company; Gerald Irvine, for Utah Power & Light Company and Utah Light and Traction Company; Clinton D. Vernon, for Public Service Commission of Utah; Warwick C. Lamoreaux, for Public Service Commission of Utah.

By the **COMMISSION:** On December 31, 1942, the Utah Power & Light Company (hereinafter referred to as Utah Company) and Utah Light and

Traction Company (hereinafter referred to as Traction Company) filed this application for the Commission's consent and approval of the "acquisition" by Utah Company of all the properties and assets of the Traction Company, the assumption by Utah Company of Traction Company's obligations, forgiveness of intercompany indebtedness, cancellation of its stock, and its dissolution, pursuant to the statutes of this state providing for dissolution of corporations. After some delay, requested by Utah Company, hearing was set for May 7, 1943, on which date the companies introduced testimony and exhibits in support of

## UTAH PUBLIC SERVICE COMMISSION

### *Consolidation, merger, and sale, § 23 — Public benefit — Expediting refinancing program — Accounting.*

7. A merger or consolidation of a wholly owned subsidiary with the parent corporation, operating the subsidiary's property under a long-term lease agreement and obligated on its bonds, was held not to be adverse to the public interest, provided that plant accounts, revenues, operating expenses, and other accounts were properly recorded and maintained, but was held to be of benefit to the public since it might expedite a refinancing program, p. 204.

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## UTAH PUBLIC SERVICE COMMISSION

their application. On June 15th and 16th the Commission's staff cross-examined company witnesses and offered testimony and exhibits and on June 17th the hearing was completed with cross-examination of staff witnesses.

A full and complete hearing was held upon the application. Witnesses testifying for the company were its president, George M. Gadsby, and its secretary-treasurer, R. H. Jones, who are also president, and treasurer and assistant secretary, respectively, of the Traction Company. Mr. Edward L. Dunn, chief examiner of accounts of the Federal Power Commission (on loan to this Commission) and Theodore E. Thain, chief accountant of the Public Service Commission of Utah, testified on behalf of the Commission. Twenty exhibits were introduced by the company, embracing nearly 900 pages. The transcript of the testimony given at the four days of hearings numbers 337 pages.

### *The Companies' Application*

The companies' application recites among other things that both Utah Company and Traction Company are public utilities whose operations within the state of Utah are subject to the jurisdiction of this Commission; that the Traction Company under a 99-year lease, dated January 2, 1915, leased to the Utah Company its electric generating, transmission, distribution, and all of its other property ex-

cept such property as is used solely and exclusively in connection with its street railway, electric trolley coach and gas bus transportation operations; that except for directors' qualifying shares, all common stock of the Traction Company (there is no preferred stock) is owned by the Utah Company; that under the lease the Utah Company agreed to the payment of an annual rental and also unconditionally guaranteed the payment of both principal and interest on Traction Company bonds, the principal amount of which, as of October 31, 1942, was \$11,849,000; that Traction Company bonds mature October 1, 1944, and that \$32,375,000 of bonds of the Utah Company mature February 1, 1944; that Utah Company, in order to pay off and retire these maturing bonds, proposes to issue and sell \$37,000,000 principal amount of first mortgage bonds, due 1973, and \$7,000,000 principal amount of general mortgage bonds, due 1958;<sup>1</sup> that "in connection with, and as a part of such refinancing" Utah Company proposes to acquire all of the property and assets of Traction Company (and the Western Colorado Power Company, also a wholly owned subsidiary, which operates entirely in the state of Colorado, hereinafter sometimes called "Colorado Company") to assume the outstanding indebtedness of those companies, to forgive all of their indebtedness to Utah Company, to

<sup>1</sup> The company estimates the sale of \$37,000,000 principal amount first mortgage bonds 3½ per cent series due 1973 and \$7,000,000 principal amount general mortgage bonds, 4½ per cent due serially 1944 to 1958, at assumed price to net the company the principal amount after deduction of expenses, plus accrued interest. After the close of the hearing the company advised the Commission that instead

of issuing \$7,000,000 principal amount general mortgage bonds, 4½ per cent due serially 1944 to 1958 it proposed to borrow \$3,500,000 evidenced by serial notes, from The Chase National Bank and other banks secured by a like principal amount of general mortgage serial bonds and to sell \$3,500,000 general mortgage serial bonds to Northwestern Mutual Life Insurance Company.

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cancel all the stock of those companies and to complete their dissolution.

The application also states that the proposed "acquisition" will benefit Utah Company and the public by simplifying the corporate setup of the companies involved and causing Utah Company to cease to be a "holding company" under the Public Utility Holding Company Act of 1935, by reducing the number of reports to be prepared and filed with state and Federal agencies, and by permitting the company to effect savings estimated at \$13,900 annually.

In exhibits attached to the application the applicants presented their proposed accounting entries and consolidated balance sheet as of December 31, 1942, reflecting the "acquisition" of both Traction Company and Colorado Company by Utah Company. The matters presented to the Commission for determination are whether the "acquisition" of Traction Company is in the public interest, and the manner in which it shall be recorded on the company's books and set forth in the consolidated balance sheet if found to be in the public interest.

### *Applicable Statutes and Jurisdiction of Commission*

[1, 2] In the application filed with this Commission the companies describe the proposed transaction as an "acquisition," and at the hearing counsel for applicants insisted that there is no merger or consolidation involved. He contended that this case comes within the language of § 76-4-32 of the Utah Code, Annotated 1943, which provides that a utility may not "acquire" the properties of another public utility engaged in the

same general line of business without first obtaining the consent and approval of this Commission, and, further, that it does not come within the provisions of § 76-4-30 which stipulates that no public utility shall "merge nor consolidate" with another public utility without the consent and approval of this Commission. The significance, if any, of the distinction sought to be drawn by the company between an "acquisition" and a "merger or consolidation" was not developed by the company at the hearing. A Commission witness testified that "a merger results when the assets of a corporation are acquired by another corporation, and the acquired business no longer exists as a distinct entity." The transaction involved in this case is more accurately described as a merger than as an acquisition of property only. If Utah Company was merely proposing to purchase or acquire the electrical properties of Traction Company, such transaction might accurately be described as an "acquisition." Here, however, as pointed out, Utah Company proposes to acquire all Traction Company property and assets, assume or forgive all indebtedness, cancel its stock, and complete dissolution of Traction Company. The Commission believes that in reality there is here involved a merger or consolidation and not merely an acquisition of property and assets. The Commission also believes that the provisions of Chap. 27, Laws of Utah, 1943, which outlines the procedure to be followed when corporations merge or consolidate, will apply to the proposed "acquisition." It probably would be inappropriate for this Commission to attempt to deter-



## UTAH PUBLIC SERVICE COMMISSION

mine finally whether in law and fact the proposed transaction is a merger or consolidation under the statutes of this state, or only an acquisition of property and assets. Such a determination is unnecessary in this case, for in either event the companies must obtain the consent and approval of this Commission. The Commission takes the position that the companies' application invokes its jurisdiction under both §§ 76-4-30 and 76-4-32 of the Utah Code Annotated, 1943, and also under § 76-4-31 of the Code. Section 76-4-31 prohibits any public utility from acquiring the "secured obligations of any other public utility engaged in the same general line of business without the consent and approval" of the Public Service Commission. The application states that Utah Company proposes to "assume" the secured obligations of Traction Company, obligations which it heretofore has unconditionally guaranteed. In view of the fact that the Commission believes this is a merger or consolidation under the law of this state, it will throughout this report, findings of fact and order, refer to it as such. The reference, however, shall, in each instance, embrace what the companies propose in this application, be it merger or consolidation or acquisition only.

[3, 4] The new law, referred to above, was passed by the last legislature in February of this year, and went into effect May 11, 1943, four days after the first session of the hearing before the Commission in this matter. This act, Chap. 27, Laws of Utah, 1943, amended § 18-5-1 of the Utah Code. That section, before amendment, provided that "Corpora-

tions of the same kind, engaged in the same general business in the same vicinity, heretofore created under the laws of the territory or state of Utah or hereafter organized under the laws of this state, may consolidate" upon terms and conditions to be agreed upon at a special meeting of stockholders. The section is almost completely rewritten in the amendatory law which is quite similar to, and in many particulars is identical with, an act passed in 1937 by the legislature of the state of Maine, which is the state of incorporation of the Utah Power & Light Company. Chapter 195 of the Laws of Maine, 1937.

The new section of the Utah Code provides as follows:

"Any one or more corporations organized under the provisions of this title or existing under the laws of this state may consolidate or merge with one or more other corporations organized under the laws of this state or of any other state or territory of the United States if the laws under which such other corporation or corporations are formed shall permit such consolidation or merger. The constituent corporations may merge into a single corporation which may be a corporation of the state of incorporation of any one of said constituent corporations as shall be specified in the agreement hereinafter required, or a consolidation may be affected by the formation of a new corporation for the purpose of buying in and taking over and operating the properties, rights, and franchises of the corporations desiring to consolidate. All constituent corporations shall enter into articles of agreement designating the name of the consolidated corpora-

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tion prescribing the terms and conditions of the consolidation or merger, the mode of carrying the same into effect, the manner of converting the shares of each of said constituent corporations into shares or other securities of the corporation resulting from or surviving such consolidation or merger briefly describing the properties to be consolidated, and such other details and provisions as shall be deemed necessary or proper. There shall also be set forth in said agreement such other facts as shall then be required to be set forth in certificates or articles of incorporation by the laws of the state named in said agreement to be the laws that shall govern said resulting or surviving corporation. Said agreement shall be authorized, adopted, signed, and acknowledged by each of said constituent corporations in accordance with the laws under which it is formed and in case of a Utah corporation by a vote representing at least a majority in amount of the outstanding stock entitled to vote, at a special meeting thereof upon notice stating the time, place, and object of such meeting published for at least thirty days prior thereto in a newspaper or newspapers having general circulation within the county or counties where such corporation or corporations have their principal place of business. The articles of agreement so authorized, adopted, signed, and acknowledged shall be filed in the office of the county clerk and secretary of state in the manner provided in this chapter and shall thenceforth be taken and deemed to be the agreement and act of consolidation or merger of said constituent corporations for all purposes of the laws of this state.

If the consolidation is effected under the laws of another state or territory or of the United States, the certificate of merger or the articles of such new corporation shall nevertheless be filed in this state with the county clerk of the county of its principal place of business and the secretary of state of Utah and thereafter such consolidated corporation shall be treated for all purposes as a foreign corporation."

Although Mr. Gadsby, president of Utah Company, undertook in his direct testimony to advise the Commission as to its jurisdiction in the premises by reading from a prepared opinion over the signature of the general counsel of the company, he made no reference to the above statute. After serving applicants with a proposed draft of a report and order in this matter, the Commission was advised by counsel for applicants that following passage of the new law, they concluded that its provisions would not apply to the proposed "acquisition" and, further, that they would not proceed under its terms. They hold to the view that this is simply an acquisition and not a merger or consolidation.

It is important to consider some aspects of the applicability of this statute to the proposed merger or consolidation, particularly in view of the fact that it has very recently been enacted in this state and the further fact that it follows closely the provisions of an act in force in the state of Maine, where the Utah Company was incorporated. In the first place the new law specifically permits the consolidation of Utah corporations with corporations of other states, if the laws of the states where the foreign corporations are formed permit such

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consolidation or merger, whereas, the law which has just been amended, authorized the merger or consolidation only of corporations organized under Utah law. The Maine statute permits such mergers or consolidations as are covered by the new law in Utah. Utah Company is a Maine corporation and Traction Company is a Utah corporation. It is likely that Traction Company and Utah Company could not have consolidated under the provisions of the old law. It would seem that the new law has at least an indirect bearing on the Commission's jurisdiction. The Commission may now properly approve a merger or consolidation of a utility formed under the laws of Utah with a utility incorporated under the laws of another state. Apparently, under the old law such a merger or consolidation was not permitted, with or without the consent of this Commission. The old law also confined consolidations to corporations "of the same kind, engaged in the same general business in the same vicinity." No such restrictive provision was carried into the new law. The old law provided that the corporations might consolidate "upon such terms and conditions *conformable to law*" (italics supplied) as might be agreed upon by the stockholders. The new law provides that the constituent corporations shall enter into articles of agreement (to be approved by the stockholders of the constituent corporations) "prescribing the terms and conditions of the consolidation or merger, the mode of carrying the same into effect, the manner of converting the shares of each of said constituent corporations into shares or other securities of the cor-

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poration resulting from or surviving such consolidation or merger . . . and such other details and provisions as shall be deemed necessary or proper." The new law also provides that when the articles of agreement have been authorized, adopted, signed, acknowledged, and properly filed with the county clerk and the secretary of state they "shall thenceforth be taken and deemed to be the agreement and act of consolidation or merger of said constituent corporations *for all purposes of the laws of this state.*" (Italics supplied.)

The provisions of the new law, last quoted, are particularly significant in connection with the plea of counsel for the applicants, and the request of the group of preferred stockholders, that this Commission promptly give its consent and approval to the proposed merger or consolidation "without modifying restrictions or conditions." To do so might leave the determination of the terms and conditions of the proposed merger or consolidation, and the manner of carrying the same into effect, solely to the Utah Company and the constituent company, which is a wholly owned subsidiary of Utah Company, if the provisions of the new law apply. The Commission believes that the recently enacted law does and will apply to the proposed merger or consolidation. In any event it is definitely of the opinion that it would be derelict in its duty under the provisions of §§ 76-4-30, 76-4-31, 76-4-32 and other sections of Title 76 of the Utah Code if it gave its consent and approval without inquiring into and prescribing or approving the terms and conditions of a proposed merger or consolidation

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and the manner in which it is to be carried into effect. This Commission is duty bound to inquire into the proposed terms and conditions of a contemplated merger or consolidations and to determine how such terms and conditions will affect or may affect the rates, rules, or practices of the consolidated utility or its regulation by this Commission under applicable statutes. The Commission is prepared at this time to approve and give its consent to the proposed consolidation or merger on the conditions and terms herein outlined.

[5] As to the jurisdiction of the Commission over the accounts of the companies, § 76-4-22 of the Utah Code Annotated, 1943, provides:

"The Commission shall have power to establish a system of accounts to be kept by public utilities subject to its jurisdiction, to classify said public utilities and to establish a system of accounts for each class and to prescribe the manner in which such accounts shall be kept. . . . The Commission may, after hearing had upon its own motion or upon complaint, prescribe by order the accounts in which particular outlays and receipts shall be entered, charged, or credited."

The authority to establish a system of accounts and to prescribe the manner in which they shall be kept carries with it the responsibility to see that financial reports, based on the established system of accounts, are prepared in such a manner as clearly to disclose all significant facts.

The Commission has prescribed a Uniform System of Accounts for

Electric Utilities and a Uniform System of Accounts for Urban Passenger Carriers.<sup>2</sup> The balance sheet and balance sheet accounts are prescribed therein. The purpose of the balance sheet accounts is stated as follows:

"The balance sheet accounts are intended to disclose the financial condition of the utility as of a given date by showing its assets and other debits, and liabilities, capital stock, surplus (or deficit), and other credits."

All interested parties are thus informed that the balance sheet purports to disclose the financial condition of the company. They are entitled to rely upon the published balance sheet as being a correct statement of the proper amounts in the accounts prescribed by this Commission. It is the plain duty of the Commission to require that the accounts be stated in the prescribed manner, particularly at this time when the Utah Company is seeking to secure \$44,000,000 from the public.

[6] The applicants have urged us to approve the merger or consolidation but at the present time to ignore the accounting entries they propose to make and the consolidated balance sheet they propose to present to the public and have presented to their stockholders, to this Commission and to other Commissions. The only reason which the applicants advance for their request, is that such procedure would expedite a refinancing program. As we view the whole matter, we cannot agree with the applicants in this particular. In fact, we believe the contrary is true. If we clearly state our

<sup>2</sup>The Commission established the present System of Accounts for Utah Company effective as of January 1, 1937, by its General

Order No. 34, and for Traction Company effective as of January 1, 1940, by its General Order No. 45.

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position with respect to the merger or consolidation, the proper amounts in the accounts of the individual companies, the pro-forma consolidating entries and the method whereby the write-ups may be disposed of, the Utah Company and the Securities and Exchange Commission will be able to proceed without delay and without further speculation as to the effect of this Commission's regulation as it will be reflected in the consolidated balance sheet of the surviving company. We shall therefore consider the matters at issue which are clearly under our jurisdiction and indicate our views as to the method by which the proposed merger or consolidation may be accomplished in the public interest, as indeed we are required to do under the statute.

### *Problems Bearing on Question of Public Interest*

The applicants estimate that the proposed merger or consolidation of Traction Company and Colorado Company with the Utah Company would produce savings in administrative costs amounting to approximately \$13,900 a year. On the basis of the testimony of Mr. Jones on cross-examination this estimate is reduced to approximately \$11,000 annually, an amount which the Commission feels is relatively insignificant when compared with other aspects of the proposed merger which must be considered in determining whether the merger or consolidation is or is not in the public interest. There is doubt in the minds of the members of the Commission whether the estimated saving in administrative costs outweighs the disadvantages which are

likely to flow from the merger or consolidation and which will make the task of regulating the consolidated company more complicated and difficult. As a general proposition, the Commission is inclined to look with disfavor upon a plan which contemplates the merger or consolidation of such dissimilar utility services as are performed by an electric system and a transportation system, especially where that transportation system expects to soon complete the abandonment and retirement of street railway service and concentrate almost exclusively upon bus transportation service. It also is of the opinion that, even in the event of merger or consolidation of all properties of Traction Company with Utah Company, steps should be taken by the surviving company to divest itself of the transportation business as soon as practicable. Again as a general proposition, the Commission would look with favor upon a plan to acquire or merge just the electrical properties of the Traction Company with the Utah Company.

When testifying on direct examination, Mr. Gadsby informed the Commission that plant accounts, revenues, and operating expenses applicable to transportation and electric business would be kept separately after consolidation. It developed, however, that it is proposed to record all plant acquired, both transportation and electric, in one lump sum on the records of Utah Company and also record additional amounts in the plant account. The Commission's staff has taken exception to the company's proposed entries which are considered hereinafter. Mr. Gadsby also stated that if



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the Utah Company did not acquire the entire assets of the Traction Company a tax liability of \$2,434,000 would result. This, he stated, was on the basis of information furnished to him by Mr. E. R. Gilpin, a tax attorney and consultant of Reid and Priest, a law firm in New York city, which represents Electric Bond and Share Company and its affiliates in many matters. On cross-examination it was brought out that Mr. Gilpin, when he testified before the Securities and Exchange Commission, stated that if only the electrical properties of the Traction Company were acquired and a consolidated tax return were filed there would be an additional annual tax liability of only \$36,000 *provided* no account is taken of the preferred stock dividend credit in computing the surtax. Mr. Gadsby, later in the hearing and after further consultation with Mr. Gilpin, stated that on the basis of the company's operation for the year 1942 there would be no additional tax liability because the preferred stock dividend credit is in excess of the amount which would be subject to the tax. On the basis of 1943 operations, which he predicted would be better than 1942, he estimated there might be a small additional tax liability. On the basis of the record before the Commission it is obvious that there is no significant tax problem, and that there will be no material benefit to the public through the payment of a smaller amount of taxes by the surviving company if permission is given to merge or consolidate all facilities of the Traction Company with Utah Company.

On the other hand the applicants' proposal to merge or consolidate all

of Traction Company properties and facilities with Utah Company raises a depreciation problem. The annual report to this Commission for 1942 by the Traction Company contains a statement to the effect that that company's earnings for some years past have not been sufficient to permit the setting aside of any amount for retirement of railway property. Mr. Gadsby acknowledged that there is no depreciation reserve for the street railway property, and that no provision is currently being made for its retirement. Mr. Gadsby estimated that from \$850,000 to \$1,000,000 of the physical street railway property will be retired. Whatever amount is retired will have to be charged against the surplus of the surviving company.

After the record was closed in this case, a preferred stockholder, who had been in attendance on two days of the hearing, requested permission to file with the Commission a letter setting forth the views of himself and a few other preferred stockholders. The Commission would have been interested in any evidence or testimony the preferred stockholders might have presented, and in the absence of such evidence or testimony, granted the request for permission to file such a communication. Counsel for the applicants and counsel for the Commission each indicated he had no objection to the Commission considering such communication in connection with its determination of this case.

On June 24, 1943, a letter was filed with the Commission requesting that the merger be approved promptly "without modifying restrictions or conditions." This letter was signed by fourteen individuals representing

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themselves to be preferred stockholders of Utah Company. The letter states that a representative of this group of preferred stockholders had conferred with the staff of the Securities and Exchange Commission and attended part of the hearing before that Commission. It states that "we also anticipate that the SEC will order a complete recasting of the capital structure of the company in which the entire voting control will be vested in the present preferred stock." Further, the communication states in connection with the refinancing program:

"We believe that future earning power, particularly as estimated over the next five years, will be the most important single factor in the decision of the SEC."

The Commission has had occasion to consider the earnings of Utah Company for the past, present, and immediate future in connection with the reasonableness of its rates, and in this case. Mr. Gadsby, president of the company, testified that earnings before taxes would be increased approximately \$532,000 as a result of savings in bond interest at the estimated interest rates on the new bonds. In this connection, however, he also testified that such an increase in earnings would produce only a net increase of about \$90,000 due to the fact that increased income and excess profits taxes resulting from the increase in earnings would amount to approximately \$441,000. Mr. Gadsby also stated that if earnings were reduced \$1,600,000 there would be a net reduction of income to the company of only \$270,000, due to a saving in income and excess profits taxes of about

\$1,330,000. This indicates a net decrease in earnings of only \$180,000 assuming a reduction of revenues due to reduced electric rates amounting to \$1,600,000 and an increase in earnings as a result of savings of bond interest in the amount of \$532,000. Mr. Gadsby further testified that these proportions and relationships would exist so long as the company had taxable income subject to the 1942 Federal excess profits tax.<sup>3</sup>

It is obvious, on the basis of Mr. Gadsby's testimony, that a controlling and limiting factor on the income of Utah Company will be the Federal income tax laws, and that such matters as refinancing and reduction of rates will not be of major importance upon the net earnings of the company so long as the 1942 excess profits tax rates apply.

Many of the other arguments presented in the communication from these preferred stockholders were made by the applicants in the course of the hearing and have been carefully considered by the Commission.

[7] In the light of the fact that Utah Company owns all of the stock of the Traction Company and the additional fact that under the 99-year lease agreement hereinbefore referred to Utah Company pays Traction Company a minimum annual rental of \$350,000 for the use of its electrical properties and unconditionally guarantees its bonds, both as to principal and interest, it would seem that the proposed merger or consolidation of all of Traction Company properties

<sup>3</sup> Utah Company estimated that the income subject to excess profits tax for the year 1942 was approximately \$1,900,000.

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with Utah Company would not substantially affect the present obligations of Utah Company with respect to the operations and liabilities of Traction Company. Utah Company contends that the merger or consolidation of Traction and Utah Companies is an integral part of its refinancing program. At the close of the hearing, counsel for the company strongly urged the Commission to give its approval of the merger without delay in order that the refunding program might not be placed in jeopardy. The final determination as to the basis upon which the company may be permitted to refinance rests with the Securities and Exchange Commission. This Commission is anxious to do whatever it can, consistent with public interest, to expedite the refinancing of the companies' bonds.

It appears to the Commission that, while there is no substantial public benefit to be achieved by reason of the merger or consolidation *as proposed*, nevertheless a merger or consolidation would not adversely affect the public interest, provided that plant accounts, revenues, operating expenses, and other accounts are properly recorded and maintained, to the end that the results of the various operations may be ascertained and the financial position of the surviving company be disclosed. The Commission believes that a merger or consolidation of the companies may actually expedite the refinancing program, and it finds that a merger or consolidation, accompanied by the recording of proper entries on the books, will undoubtedly be of benefit to the public.

### *Balance Sheet and Accounting Entries Proposed by the Company to Reflect Consolidation of Traction Company and Colorado Com- pany as of December 31, 1942*

[8] Applicants propose to record in the Plant, Property and Equipment (including intangibles) Account of Utah Company, the amount of \$31,218,308.72 as of December 31, 1942. They propose to record this lump sum amount in Account 100.6, Utility Plant in Process of Reclassification, to be distributed to the plant accounts or otherwise disposed of at some later date.

The proposed charge to Account 100.6 violates the intent and purpose of that account and the plain instructions contained therein. Paragraph A of Account 100.6 provides that there shall be closed to this account the book cost of utility plant as of January 1, 1937, and note B states specifically that no charges other than as provided by paragraph A above shall be made to this account. The Commission finds that the proposed entry in Account 100.6, Utility Plant in Process of Reclassification, is improper. The accounting instructions to properly record utility plant constituting an operating system, acquired by purchase or merger, are set forth in Plant Instruction 4 of the Uniform System of Accounts.

It is quite clear from the instructions that plant accounts shall be charged with the *cost* to the utility of the property acquired.<sup>4</sup> Certainly the plain language of Plant Instruction 4

<sup>4</sup> Cost to the utility of the property acquired means cost to Utah Power & Light

Company or cost to the first company in the Electric Bond & Share System in the case

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cannot be construed as permitting Utah Company to record in its plant accounts any write-ups or improper charges in the accounts of its wholly owned subsidiaries and an additional write-up in connection with the merger or consolidation of the subsidiaries. We find that if a merger were permitted to create or validate write-ups, the interests of the public, the consumers, and investors, would be impaired and the effectiveness of regulation thwarted.

The amount of \$31,218,308.72 which Utah Company proposes to add to its plant account is composed of the following totals:

Plant, Property, and Equipment, per books at December 31, 1942:	
The Western Colorado Power Company .....	\$8,777,109.77
Utah Light and Traction Company .....	19,781,392.75
<b>Total Plant, Property and Equipment of Subsidiaries</b>	<b>\$28,558,502.52</b>
Increase computed as follows:	
Common stock of Traction Company, per books of Utah Company ...	\$5,777,514.51
Par value of Traction Company common stock	1,150,875.00
<b>Write-up added to consolidated plant accounts .....</b>	<b>4,626,639.51</b>
	\$33,185,142.03
Decrease, representing surplus of Traction Company at date of acquisition .....	1,966,833.31
<b>Total .....</b>	<b>\$31,218,308.72</b>

What Utah Company proposes to do is simply to take over on its books whatever amount appears in the plant accounts of the individual companies and in the process increase the consolidated plant with \$4,626,639.51 by transferring the write-up in its in-

vestment in common stock of Traction Company to plant accounts.<sup>5</sup>

The Commission is of the opinion that it is essential that the plant instructions of the Uniform System of Accounts be complied with. We find that the pro-forma accounting entries proposed by the company do not comply with the System of Accounts and we, therefore, shall indicate the proper entries and consolidated balance sheet as of December 31, 1942, to show the merger or consolidation of Traction Company and Utah Company. Utah Company has not applied to this Commission for approval of the proposed acquisition, merger, or consolidation of Colorado Company; therefore, we reserve the right to approve any entries proposed to be made on the books of Utah Company to reflect the ac-

of properties acquired by an associated company and subsequently transferred to Utah Company.

<sup>5</sup> Pursuant to an offer of Utah Securities Corporation dated February 1, 1915, and the acceptance thereof by Utah Company dated February 16, 1915, Securities Corporation transferred to Utah Company the entire outstanding common stock of Traction Company with total par value of \$1,000,000; released Utah Company from all liability to repay Securities Corporation an amount of \$416,001.68 representing expenses in connection with organization, acquisition of properties, etc.; and caused to be transferred to Utah Company the properties of Bear Lake Power Company and The Davis County Light and Power Company. In return, therefore, Utah Company delivered \$1,197,641.19 of cash, issued \$5,000,000 par value of common stock, and incurred \$227.24 of miscellaneous acquisition costs. The securities transferred to Utah Company were recorded on its books at \$5,626,639.51; the promotion services were recorded in plant as organization cost at \$416,001.68, and \$155,227.24 was recorded as applicable to the properties transferred. Utah Company acquired and Traction Company issued 6053 shares of \$25 par value common stock for \$150,875 in cash in 1918. This transaction increased the total cost of Traction Company common stock to \$1,150,875 and the amount it recorded on the books of Utah Company to \$5,777,514.51, which amounts remain unchanged as of December 31, 1942.

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acquisition, merger, or consolidation of Colorado Company.<sup>6</sup>

### *Principles of Consolidation*

[9] The Commission is of the opinion that the merger or consolidation of Traction Company and Utah Company will be in the public interest only if proper principles are followed. Mr. Dunn and Mr. Thain, after investigation of the company's books and records presented evidence, both oral and documentary, concerning the necessary eliminations and adjustments to reflect the merger or consolidation of Traction Company and Utah Company in order to comply with the Uniform System of Accounts. We find that when the accounting entries are made to reflect the merger or consolidation eliminations, adjustments, and entries shall be made to adjust the accounts of the individual companies to a common and uniform basis of cost as prescribed by the Uniform System of Accounts; that the assets of the surviving company may not be stated at an amount which exceeds the proper totals for both companies individually; and that the intercompany eliminations should be made substantially in the manner set forth in appendix A of this report.

<sup>6</sup> Mr. Gadsby, who is also president of Colorado Company, testified that the plant accounts on the books of Colorado Company in the total amount of \$8,777,109.77 contained approximately \$4,500,000 in excess of the original cost of the properties, based on a study made by the Colorado Company but not yet submitted to the Federal Power Commission. He also stated that the book depreciation reserve amounted to only 3.6 per cent of plant account per books at December 31, 1942, and that this depreciation reserve is inadequate.

<sup>7</sup> 107. Utility plant adjustments.

A. This account shall include the difference

### *Write-ups Transferred to Account 107<sup>7</sup>*

[10] The testimony establishes that the amount of \$28,575,301.21 should be removed from plant accounts of Utah Company and classified in Account 107 on its books. Utah Company claims that the following two items should be included in plant accounts and not Account 107:

1. Phoenix fees ..... \$1,049,136
2. Preferred stock expenses ..... 1,075,418

The companies were afforded a full and complete opportunity to present any evidence they might have to support their application and their claims. Much of the evidence which they did present, and which was received, bears directly on the plan of refinancing which is before the Securities and Exchange Commission, and only indirectly pertains to any matters before this Commission in this hearing. On the other hand, however, as to some of the matters brought squarely into issue by the evidence such as the amounts to be transferred to Account 107, they offered no evidence whatsoever in support of any position they might take with reference to these items other than is shown in the proposed consolidated balance sheet as of December 31, 1942.

between the original cost, estimated if not known, and the book cost of utility plant, at the effective date of this system of accounts, to the extent that such difference is not properly includable in Account 100.5, Utility Plant Acquisition Adjustments. Write-ups of utility plant prior to the effective date of this system of accounts shall be recorded herein.

B. The amounts included in this account shall be classified in such manner as to show the nature of each amount included herein and shall be disposed of as the Commission may approve or direct.



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[11] In our determination of cost we have found the original cost to the person first devoting the property to public service, and also cost to the utility in case of properties acquired as operating units or systems. In the determination of the amounts to be included in Account 107 we have consistently eliminated the intercompany profits and write-ups which have been inscribed in the plant accounts of Utah Company at Electric Bond and Share's direction through the use of dummy intermediaries, paper corporations, and the shuffling of properties, securities, and cash among the associated companies. We must continue to maintain that in considering transactions among the associated companies in the Electric Bond and Share group we must look beyond the veil of corporate fiction in order to ascertain actual cost. The Phoenix fee admittedly is an intercompany profit, paid to a paper corporation set up by Electric Bond and Share Company. We find that the fee paid to Phoenix does not represent actual plant cost and that it is properly classified in Account 107.

[12] Preferred stock expense represents "finders fees" paid at the rate of \$7, \$9, and \$10 to Securities Corporation by Utah Company for "finding" its parent, Electric Bond and Share, as the purchaser for Utah Company's 7 per cent preferred stock in the amount of \$791,000 and other expenses and commissions paid in connection with the sale of preferred stock. Utah Company claims this amount was properly includable in plant accounts as organization expense under the former system of accounts and is now eliminated by a shift in

accounting classification. We cannot agree with the company's contention. The expenditures were made years after Utah Company was organized and in successful operation, therefore, are not associated with the organization of the company; certainly, by the very description of the item, it does not represent plant assets. Furthermore, Utah Company so far has been unable to produce any evidence that the "finders fees" were not intercompany profit to Electric Bond and Share. We accordingly find that the entire amount is improperly classified as organization expense and may be temporarily classified in Account 151, Capital Stock Expense, or Account 107, Utility Plant Adjustments, pending further study by Utah Company for the purpose of ascertaining to what extent these amounts represent actual cost.

[13] Utah Company also claims that an estimated amount of \$350,000 should be added to plant accounts for organization expense. The plant accounts include an amount of \$1,176 in organization account and \$45,900 for organization and promotion fees in Account 100.5, Electric Plant Acquisition Adjustments. Since this amount of \$47,000 is all of the organization expense actually incurred we need not add any estimates of this nature.

[14] Mr. Dunn recommended that \$4,506,445.54 be charged to Account 107 to reclassify the write-up in plant accounts and to dispose of organization expenses of Traction Company when that company is merged and dissolved. Counsel for applicants did not cross-examine Mr. Dunn concerning this adjustment or otherwise chal-

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lence it in this case. However, in Case No. 2612 Mr. R. H. Jones, treasurer of Utah Company, made certain computations, based on the assumption that Utah Company had acquired the physical properties of Traction Company in 1914, which resulted in a proposed increase in the electric plant accounts of \$1,800,000, which Mr. Jones described as the assumed "system cost" to Utah Company. In this case wherein Utah Company proposes to acquire the physical properties of Traction Company, through the merger and dissolution of Traction Company sometime in the future, Mr. Jones testified that consolidated plant accounts should be reduced \$1,966,833.31, the amount of surplus at date of acquisition of the common stock of Traction Company. Mr. Jones did not take into account the depreciation reserves or surplus of Traction Company at the date of acquisition of the common stock when he computed the additional amount of \$1,800,000, based on his assumption that Utah Company had acquired the physical properties in 1914. We must conclude that there is no excess of system cost over the original cost of Traction Company to Utah Company. This finding and conclusion is based on the sound viewpoint that an amount properly classified as write-up (Account 107) on the books of a wholly-owned constituent company cannot be converted to system cost (Account 100.5) on the books of the surviving parent company.

[15] In the process of recording and reflecting the merger or consolidation the common stock of Traction Company and the investment in common stock of Traction Company on

the books of Utah Company must be canceled as an intercompany elimination. The amounts do not offset, however, due to the fact that the par value of Traction Company common stock, in the amount of \$1,150,875, is carried on the books of Utah Company in the amount of \$5,777,514.51. Utah Company or its affiliate paid only the par value of this stock, therefore the difference represents a write-up of \$4,626,639.51<sup>8</sup> in the investment account of Utah Company. The company proposes to transfer this write-up of the investment in Traction Company common stock to investment in plant accounts of the consolidated company, without giving any reason why it considers the item investment in plant. Mr. Dunn testified that the amount should be charged to surplus and the company did not attempt any refutation of this testimony. We agree with the principle that the plant assets of a consolidated company may not be stated at an amount which exceeds the proper totals for both companies individually and accordingly do not approve the increase of the consolidated plant accounts proposed by the company.

### *Disposition of Write-ups in Account 107*

[16] Paragraph B of the above-designated account provides that, "The amounts included in this account shall be classified in such manner as to show the nature of each amount included herein and shall be disposed of as the Commission may approve or direct."

<sup>8</sup> \$1,075 representing directors' qualifying shares is temporarily retained in the consolidated accounts which makes the amount \$4,627,714.51.

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Adjustments No. 7 and No. 8 of appendix A set forth a method for disposing of the amount of \$33,081,746.75 in Account 107. These adjustments propose that the Commission permit the company to create capital surplus in the amount of \$30,000,000 through the surrender of 3,000,000 shares of common stock by Electric Power & Light Corporation, which stock is carried on the books of Utah Company in the amount of \$30,000,000. The write-ups in Account 107, in the amount of \$33,081,746.75, are then charged off, \$3,081,746.75 to earned surplus and \$30,000,000 to the capital surplus account.

We have considered the fact that preferred stock represents the actual investment and its dividends are in arrears, while the stated value of the common stock is merely an amount offsetting the write-up in plant and not actual investment. We believe that the proposed capital surplus adjustment is a fair and reasonable method to dispose of the write-up which is associated with the issuance of the common stock.<sup>9</sup>

Counsel for applicants, in the oral argument before the Commission, pointed out that the amounts to be finally disposed of and the method of disposing of said amounts was pending before this Commission and the Federal Power Commission. He asked this Commission to ignore the entire matter for the time being and permit the companies to merge or consolidate in the manner proposed. He

claims that this procedure would expedite a refinancing plan and that any other procedure would foreclose the right of the company to adjudicate its claims.

As we have previously indicated, it is our opinion that it is appropriate for the Commission to consider all phases of the proposed transaction in order to determine whether it is in the public interest. We conclude that the merger or consolidation of Traction Company and Utah Company should be authorized and approved, subject, however, to the condition that the entries recording the merger or consolidation of Traction Company conform substantially to the principles and amounts set forth in Appendix A heretofore. The Securities and Exchange Commission and the Federal Power Commission are currently considering those aspects of the proposed transactions which are subject to their jurisdictions, and the conditions and requirements which those Commissions may impose cannot yet be foretold. Our disposition of the matter before us does not and cannot anticipate and comprehend the conditions and requirements that may be imposed by those Commissions. It is expected that when the orders of the Securities and Exchange Commission and the Federal Power Commission have been issued the applicants will bring those orders to the attention of this Commission for such further action by this Commission as may then be necessary or appropriate. It is likewise expected that the accounting entries to record the disposition of any write-up or inflation associated with the merger of Western Colorado Power Company will be submitted to this

<sup>9</sup> It will be noted in this connection that the company will be given full opportunity to propose any other plan for disposing of the write-ups in Account 107 at the time the final entries are submitted to this Commission for consideration and approval.

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Commission for its consideration and action. The applicants will be expected to submit at that time to the Commission for its consideration and action thereon any agreement or agreements which may be proposed bearing on the merger or consolidation and the manner of recording the same.

The Commission does not, and cannot under the plain terms of the statute, deny the applicants the right to adjudicate their claims. Neither can the applicants prevent the Commission from performing its duty under the statute to prescribe the manner in which accounts shall be kept and determine under what conditions the proposed merger or consolidation will be in the public interest.

Upon consideration of the evidence and exhibits the Commission finds and concludes:

1. That Utah Power & Light Company is a corporation, organized under the laws of the state of Maine, doing business in the state of Utah with its principal office at Salt Lake City, Utah, and that the Utah Light and Traction Company is a corporation, organized under the laws of the state of Utah, also doing business in this state and having its principal office at Salt Lake City, Utah.

2. That Utah Power & Light Company owns and operates an interconnected electric power system in the states of Utah, Idaho, and Wyoming by which it generates, transmits, distributes, and sells electric energy, and that the Utah Light and Traction Company owns electric generating plants, transmission lines, distribution systems, and other electric property in the state of Utah and also owns and

operates a bus and street railway transportation system in and near Salt Lake City, Utah.

3. That both Utah Power & Light Company and Utah Light and Traction Company are public utilities and are subject to the jurisdiction of and regulation by the Public Service Commission of Utah under the provisions of Title 76 of the Utah Code Annotated, 1943.

4. That the application for the consent and approval of this Commission to the proposed acquisition, consolidation, or merger of the Utah Light and Traction Company, and the Utah Power & Light Company, invokes the jurisdiction of this Commission under the provisions of §§ 76-4-30, 76-4-31, 76-4-32 and other sections of Title 76 of the Utah Code Annotated, 1943.

5. That the accounts of both the Utah Power & Light Company and the Utah Light and Traction Company and the manner in which such accounts shall be kept are subject to the jurisdiction of this Commission under § 76-4-22 of the Utah Code Annotated, 1943, and that pursuant to said statute this Commission has established and prescribed for each of said companies a Uniform System of Accounts which governs and controls the manner in which the accounts of the constituent companies and the consolidated or merged company shall be kept.

6. That in connection with, and as a part of the plan of merger or consolidation and refinancing of bonds, the Utah Power & Light Company, which is the owner of all the outstanding common stock of the Utah Light

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and Traction Company (there is no preferred stock), proposes to acquire all of the properties and assets of said Traction Company, assume the outstanding indebtedness, forgive all intercompany indebtedness, consolidate the assets and other debits, liabilities, reserves, and other credits appearing on said Traction Company's books and balance sheet with its books and balance sheet, and will cancel all of Traction Company's common stock, and then to complete dissolution of Traction Company.

7. That the savings and other benefits to the public, to regulation and to the companies under the plan of consolidation or merger as proposed by applicants will be negligible, and that the manner in which Utah Company proposes to record the consolidation or merger in its books and reflect it in the proposed consolidated balance sheet will not be in the public interest.

8. That a merger or consolidation of the Utah Light and Traction Company and the Utah Power & Light Company will result in simplification of corporate structure, corporate records and reports, and will be in the public interest provided that the following principles and conditions are observed and shall apply at the time of recording the final entries on the books of the constituent companies and the surviving company:

a. In order to properly merge or consolidate two or more companies the accounts of the individual companies must be stated on a common and uniform basis of cost.

b. The consolidated balance sheet must reflect the actual financial con-

dition of the surviving company after consolidation or merger.

c. The books of both the Utah Light and Traction Company and the Utah Power & Light Company shall be adjusted to comply with the applicable and effective Uniform System of Accounts.

d. Intercompany transactions shall be eliminated.

e. The Utah Power & Light Company shall file with this Commission a plan for disposition of the write-ups in Account 107, Utility Plant Adjustments.

9. The merger or consolidation of the Utah Light and Traction Company with the Utah Power & Light Company is approved subject to the conditions set forth in this report, findings of fact and order and without limitation on any matters affecting the jurisdiction of other Commissions having competent jurisdiction in the premises.

It is therefore *ordered* that the application of Utah Power & Light Company and Utah Light and Traction Company for permission to merge or consolidate, and for permission of Utah Power & Light Company to assume the secured obligations of the Utah Light and Traction Company, is approved and consented to, subject, however, to the conditions and reservations contained in the foregoing report and findings of fact and subject to the further condition that no entries shall be made in the accounts of the surviving corporation pending the determination by this Commission of the appropriate final entries which shall be made to reflect



## RE UTAH POWER & LIGHT CO.

such consolidation or merger and assumption of secured obligations.

The Commission hereby gives its consent and approval to the execution of such deeds or other instruments of conveyance as may be proper and necessary to transfer Traction Company properties and assets to Utah Company under the terms of this order.

It is *further ordered* that when the conditions and requirements of the other Commissions involved and having competent jurisdiction are determined, the applicants shall then submit to this Commission for its approval and consent the final agreements and accounting entries (including any accounting entries and supporting data pertaining to Colorado Company) necessary to reflect the acquisition consolidation, or merger and the assumption of secured obligations, and that the applicants shall at that time have opportunity to present evidence pertaining to the matters involved.

It is *further ordered* that the final entries necessary to reflect the con-

solidation or merger and the assumption of secured obligations to be submitted to this Commission by the applicants shall conform to and be consistent with the pro forma entries and balance sheet which are attached hereto and made a part hereof as Appendix "A," and which pro forma entries and balance sheet are attached to serve as a guide to the applicants and in order to enable them to proceed with other phases of their plan of reorganization and refinancing without delay.

The foregoing report, findings of fact, and order has been prepared, approved, and signed on the assumption that at the hearing applicants disclosed to this Commission all material data, agreements, terms, and conditions pertaining to or affecting the proposed merger or consolidation of Utah and Traction Companies. The Commission hereby specifically reserves unto itself jurisdiction of this matter and the right to make and give such other or further order or orders, consent, or consents, and approval or approvals herein as may be deemed necessary and advisable.

## APPENDIX "A"

## UTAH POWER &amp; LIGHT COMPANY

Consolidating Balance Sheet at December 31, 1942, to Reflect Consolidation of Utah Light and Traction Company

Assets and Other Debits	Utah Power & Light Company	Utah Light and Traction Company	Eliminations and Adjustments		Utah Power & Light Company
			Debit	Credit	
Plant, Property and Equipment .....	\$85,835,316.05	\$19,781,392.75		\$28,575,301.21	\$72,534,962.05
Utility Plant Adjustments:				4,506,445.54	
Utah Power & Light Company Write-up .....			\$28,575,301.21		
Traction Company Plant Write-up and Organiza- tion .....			4,506,445.54		
Investment and Fund Accounts:					
Subsidiaries:					
The Western Colorado Power Company:					
5% First Mortgage Gold Bonds .....	3,707,200.00				3,707,200.00
Common Stock .....	3,500,000.00				3,500,000.00
6% Income Demand Note .....	1,500,000.00				1,500,000.00
Utah Light and Traction Company:					
Common Capital Stock .....	5,777,514.51			5,777,514.51	
6% Income Demand Notes .....	5,453,331.51			5,453,331.51	
Loans and Advances .....	725,060.30			725,060.30	
Other Investments, etc. ....	36,623.00				
Total Investment and Fund Accounts .....	\$20,699,729.32	3,518.50			40,141.50
		\$3,518.50		\$11,955,906.32	\$8,747,341.50
Current and Accrued Assets .....	\$5,066,631.65	\$75,818.24		\$7,237.37	\$5,435,212.52
Deferred Debits .....	790,529.28	7,419.50			797,948.78
Total .....	\$112,392,206.30	\$20,168,148.99	\$33,081,746.75	\$78,126,637.19	\$87,515,464.85

# RE UTAH POWER & LIGHT CO.

2 of 2

Liabilities and Other Credits	Utah Power & Light Company <sup>1</sup>	Utah Light and Traction Company <sup>1</sup>	Eliminations and Adjustments Debit	Credit	Utah Power & Light Company
<i>Capital Stock:</i>					
\$6 Preferred Capital Stock .....	\$4,178,568.21				\$4,178,568.21
\$7 Preferred Capital Stock .....	20,780,218.95				20,780,218.95
Common Capital Stock .....	30,000,000.00	\$1,150,875.00	\$30,000,000.00	\$1,075.00	1,075.00
Common Capital Stock .....		\$1,150,875.00	1,150,875.00		
Total Capital Stock .....	<u>\$54,958,787.16</u>				<u>\$24,959,862.16</u>
<i>Long Term Debt:</i>					
5% First Mortgage Bonds .....	\$28,295,000.00				\$28,295,000.00
4 1/2% General Mortgage Bonds .....	4,068,000.00				4,068,000.00
6% Debenture Bonds .....	5,000,000.00	11,813,000.00			5,000,000.00
5% First Mortgage Bonds .....		248,059.08			11,813,000.00
Contract with U. S. Bureau of Reclamation .....					248,059.08
Total Long Term Debt .....	<u>\$37,363,000.00</u>	<u>\$12,061,059.08</u>			<u>\$49,424,059.08</u>
6% Income Demand Notes and Loans .....		\$6,178,391.81	6,178,391.81		
Current and Accrued Liabilities .....		471,571.15	7,237.37		
Deferred Credits .....	\$4,177,607.17	53,731.02			\$4,641,940.95
Depreciation Reserves .....	135,831.75	612,836.70			189,562.77
Other Reserves .....	9,611,316.81	101,868.89			10,224,153.51
Capital Surplus .....	498,000.65		30,000,000.00	30,000,000.00	599,869.54
Earned Surplus .....	5,647,662.76	(462,184.66)	4,627,714.51		(2,523,983.16)
" .....			3,081,746.75		
Total .....	<u>\$112,392,206.30</u>	<u>\$20,168,148.99</u>	<u>\$75,045,965.44</u>	<u>\$30,001,075.00</u>	<u>\$87,515,464.85</u>
			\$108,127,712.19	\$108,127,712.19	

<sup>1</sup> See Notes 1 to 10 inclusive

# UTAH PUBLIC SERVICE COMMISSION

## UTAH POWER & LIGHT COMPANY

Original Cost at December 31, 1942

	Original Cost at Dec. 31, 1936 Per Ex. H (2)	Corrections to Exhibit H (3)	Net Additions Jan. 1, 1937 to Dec. 31, 1942 (4)	Original Cost at Dec. 31, 1942 (5)
(1)				
<i>Electric Plant Accounts</i>				
Intangible Plant:				
301 Organization .....	\$1,176.04			\$1,176.04
302 Franchises and Consents .....	60,998.15		\$5,453.26	66,451.41
303 Miscellaneous Intangible Plant .....				
Total Intangible Plant .....	\$62,174.19		\$5,453.26	\$67,627.45
Steam Production Plant .....	\$3,543,054.06	(\$20,000.00)	\$12,404.84	\$3,535,458.90
Hydraulic Production Plant .....	25,735,371.35	9,045.40	(198,975.12)	25,545,441.63
Internal Combustion Eng. Prod. Plant .....	21,987.96	3,285.30	81,909.28	107,182.54
Transmission Plant .....	12,357,932.99	(10,854.30)	478,021.72	12,825,100.41
Distribution Plant .....	8,568,314.59	( 964.40)	2,206,388.21	10,773,738.40
General Plant .....	881,994.71	( 512.00)	147,010.86	1,028,493.57
100.1 Total Electric Plant in Service .....	\$51,170,829.85	(\$20,000.00)	\$2,732,213.05	\$53,883,042.90
100.2 Electric Plant Leased to Others .....	\$56,473.88			\$56,473.88
100.3 Construction Work in Progress .....	54,527.30		344,500.07*	344,500.07*
100.5 Electric Plant Acquisition Adjustments .....	2,059,926.47		(106,949.09)	1,952,977.38
Total Electric Plant .....	\$53,341,757.50	(\$20,000.00)	\$2,969,764.03	\$56,236,994.23
107 Electric Plant Adjustments .....	\$28,816,967.87		(\$241,666.66)	\$28,575,301.21
Other Utility Plant .....	786,011.99	\$20,000.00	14,639.39	820,651.38
110 Other Physical Property .....	198,202.76		4,166.47	202,369.23
Total .....	\$83,142,940.12		\$2,746,903.23	\$85,835,316.05

\* Balance at Dec. 31, 1942.

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## RE UTAH POWER & LIGHT CO.

### *Notes to Companies' Balance Sheets, December 31, 1942*

1. Plant, property, and equipment (including intangibles) are stated on the basis of the companies' valuations thereof at acquisition where acquired by issuance of stocks and other securities or on the basis of cost where acquired for cash or constructed, less retirements at actual or estimated cost. The ledger value of plant, property, and equipment (including intangibles) does not purport to represent present realizable values or replacement cost. No complete segregation of plant, property, and equipment (including intangibles) is available, and the intangibles identified in the accounts amount to \$1,704,324.13 for the company and \$1,777,958.49 for the consolidation.

An order of the Public Service Commission of Utah, dated January 5, 1939, as amended, provided for the complete abandonment of property devoted to furnishing passenger street car service by Utah Light and Traction Company, a subsidiary, such property then amounting to approximately \$1,200,000. Abandonments of such property were recorded in the approximate amounts of \$250,000 in 1940 and \$200,000 in 1941. Commission order, dated March 20, 1941, permits the continued use of street car service in Salt Lake City, and further retirement of railway property will not be effected in the accounts until the use of such service is discontinued.

2. Investments in securities of subsidiaries include 34,991 shares common capital stock and \$3,884,000 principal amount of 5 per cent first mortgage gold bonds of The Western

Colorado Power Company pledged as collateral to Utah Power & Light Company 30-year first mortgage 5 per cent gold bonds, due 1944, eliminated in consolidation.

The ledger value of the investment in securities of Utah Light and Traction Company, subsidiary, includes an amount of \$4,626,639.51 by which the par or face value of securities issued by Utah Power & Light Company in consideration for common stock of Utah Light and Traction Company exceeded the cost thereof to the affiliated company from which acquired. Cost of these securities to the vendor was equivalent to the par value of the securities conveyed.

3. Other investments include securities carried at cost or less, the ledger value of certain securities having been adjusted to reflect their estimated value or nominal value. None of these securities has any quoted market value.

4. Balances of unamortized debt discount and expense are being amortized on a straight-line basis over the lives of the issues to which applicable.

5. The \$6 preferred and \$7 preferred stocks of Utah Power & Light Company are callable on any dividend date (quarterly) at \$110 and \$115 per share, respectively (an aggregate of \$4,611,310 for the \$6 preferred stock and \$23,874,575 for the \$7 preferred stock), plus accumulated dividends. For amount of undeclared cumulative dividends see note 9.

6. Under terms of letter agreements between Utah Light and Traction Company and Utah Power & Light Company, dated September 25, 1942, and between The Western Col-



## UTAH PUBLIC SERVICE COMMISSION

orado Power Company and Utah Power & Light Company, dated December 21, 1938, no interest shall be paid or accrued on these notes (on which interest is payable only if, as, and when earned) until such time as the respective subsidiary's corporate surplus shall cease to be a deficit; such unpaid interest to December 31, 1942, amounted to \$2,944,799.01 for Utah Light and Traction Company and \$720,000 for The Western Colorado Power Company.

7. For statement of the companies' depreciation, and property retirement policy see note 3 to consolidating statement of income.

8. These reserves are carried on the liability side of the balance sheet in conformity with systems of accounts prescribed by regulatory authorities.

9. At December 31, 1942, undeclared cumulative dividends amounted to \$1,152,827.50 (\$27.50 per share) on the \$6 preferred stock, and \$6,660,660.42 (\$32.08 $\frac{1}{2}$  per share) on the \$7 preferred stock.

10. In the years 1937, 1938, and 1939 earned surplus deficits aggregating \$2,746,668.49 were written off against capital surplus arising from gratuitous forgiveness of debt by Utah Power & Light Company as contributions to capital.

# RE UTAH POWER & LIGHT CO.

## UTAH POWER & LIGHT COMPANY and UTAH LIGHT AND TRACTION COMPANY Consolidating Entries as of December 31, 1942

Account	1.	Debit	Credit
Dr. Surplus .....		\$4,627,714.51	
Cr. Investment in Common Stock of Traction Company .....			\$4,627,714.51
To eliminate write-up in investment account			
	2.		
Dr. Common Stock of Traction Company .....		\$1,150,875.00	
Cr. Investment in Common Stock of Traction Company ....			\$1,149,800.00
Cr. Directors' qualifying shares .....			1,075.00
To eliminate par value of common stock of Utah Light and Traction Company			
	3.		
Dr. Notes and Loans—Traction Company .....		\$6,178,391.81	
Cr. Investment in 6% Income Demand Notes .....			\$5,453,331.51
Cr. Loans and Advances .....			725,060.30
To eliminate intercompany notes and loans			
	4.		
Dr. Accounts Payable .....		\$7,237.37	
Cr. Accounts Receivable .....			\$7,237.37
To eliminate payables to Utah Power & Light Company by Utah Light and Traction Company			
	5.		
Dr. Utility Plant Adjustments .....		\$28,575,301.21	
Cr. Plant, Property and Equipment .....			\$28,575,301.21
To reclassify write-up in plant accounts of Utah Power & Light Company per Exhibit H-1			
	6.		
Dr. Utility Plant Adjustments .....		\$4,506,445.54	
Cr. Plant, Property and Equipment .....			\$4,506,445.54
To reclassify write-up in plant accounts and organiza- tion expenses of Utah Light and Traction Company			
Plant, Property and Equipment, per books, at Decem- ber 31, 1942 .....		\$19,781,392.75	
Original Cost at December 31, 1942:			
Electric Plant—Leased Property (Exh. 1-1) .....		\$12,153,295.47	
Steam-heating Plant — Leased Property .....		8,620.65	
Street Railway Plant .....		2,310,149.94	
Gasoline Motor Coach Plant .....		582,342.78	
Electric Trolley Coach Plant .....		220,538.37	
Total Original Cost (Subject to verification)		15,274,947.21	
Write-up and organization expense .....		\$4,506,445.54	
	7.		
Dr. Common Stock—Traction Company .....		\$30,000,000.00	
Cr. Capital Surplus .....			\$30,000,000.00
Creation of capital surplus through the surrender of 3,000,000 shares of common stock by Electric Power & Light Corporation			
	8.		
Dr. Surplus .....		\$33,081,746.75	
Cr. Utility Plant Adjustments .....			\$33,081,746.75
To write off Utility Plant Adjustments against Capital and Earned Surplus			

CALIFORNIA RAILROAD COMMISSION

CALIFORNIA RAILROAD COMMISSION

# Re Pacific Telephone & Telegraph Company et al.

(Decision No. 36324, Case No. 4674.)

*Apportionment, § 7 — Telephone companies — Property, revenue, and expenses — Station-to-station principle.*

The station-to-station principle of cost allocation, as distinguished from the board-to-board or any other basis, with reference to separation of property, revenues, and expenses of telephone companies, is just and reasonable and should be adopted.

[May 4, 1943.]

**I**NVESTIGATION on motion of Commission with reference to determination of basis and method of separating telephone property, revenues, and expenses; station-to-station principle approved.

**APPEARANCES:** Alfred Sutro, Felix Smith, and Arthur T. George, for The Pacific Telephone and Telegraph Company and Southern California Telephone Company; C. F. Mason and Marshall K. Taylor, for Associated Telephone Company, Ltd., and San Joaquin Associated Telephone Company; C. F. Mason, Frank V. Rhodes, and Marshall K. Taylor, for California Independent Telephone Association; A. N. Johns, for California Water & Telephone Company and West Coast Telephone Company of California; Chester C. Fisk, and Gerald W. Stutsman, for the city of Berkeley; Gerald Kepple, for Consolidated Telephone Company; Charles R. Schwanenberg and J. Kerwin Rooney, for the city of Oakland; F. J. Keys, for Public Utilities California Corporation; John J. O'Toole, Dion R. Holm, and Paul Beck, for the

Public Utilities Commission and city and county of San Francisco; J. J. Deuel for California Farm Bureau Federation; Stanley M. Lanham, for Board of Public Utilities and Transportation, and Gilmore Tillman, for the city of Los Angeles; H. A. Dannenbrink, for Siskiyou Telephone Company; B. E. Hart, for Delta Telephone and Telegraph Company; W. G. Snyder, for Western Telephone Company; H. F. Knapp, for Sanger Telephone Company.

**BAKER AND SACHSE, Commissioners:** This proceeding was instituted on the Commission's own motion to determine a principle and a method of separation of telephone plant, revenue and expense as between interstate and foreign service on the one hand, and intrastate exchange and toll service on the other hand.

## RE PACIFIC TELEPHONE & TELEGRAPH CO.

While the order is primarily directed to The Pacific Telephone and Telegraph Company and its subsidiary, Southern California Telephone Company, all connecting telephone companies in the state of California were named as respondents and served with the order of investigation. The Commission notified the regulatory boards of the other states in which The Pacific Telephone and Telegraph Company, or its subsidiary, Bell Telephone Company of Nevada, operates. Honorable C. B. Sexton, Chairman, Public Service Commission, Nevada, and Honorable B. Auger, President, Public Utilities Commission of Idaho, sat as guests at the public hearing herein at San Francisco, on March 26, 1943. Representatives of the larger independent telephone companies, as well as the California Independent Telephone Association, appeared. The larger cities of the state and the California Farm Bureau Federation were likewise represented.

In order that a separation study may be made with a view to practical results in application to exchange and toll rate regulation, a sound basis, or principle of separation, must be established. For twenty years or more, differing views among the industry and regulatory Commissions have resulted in countless days of testimony and argument, resulting in conflicting decisions and in litigation. On two occasions the matter of the principle has been before the United States Supreme Court.<sup>1</sup> That the separa-

tion should be based on actual usage of the plant and facilities, measured by time in use and other appropriate means, has already been established by these decisions. The controversy essentially involves the question of whether the separation of property to toll service should be between the respective toll switchboards or whether it should extend to include an allocation of all property used in a toll call between the calling and called telephones. Sharp differences of opinion have existed. The Bell System has almost uniformly advocated the board-to-board principle.<sup>2</sup>

On April 1, 1941, the Federal Communications Commission instituted an investigation (Docket 6053) into the reasonableness of the interstate telephone rates of the Bell System. This Commission was scheduled to participate in the investigation. That proceeding, however, was terminated by a negotiated reduction in toll rates, announced June 4, 1941, whereupon this Commission joined with other state regulatory agencies in requesting the Federal Communications Commission to coöperate in joint studies of fundamental telephone problems which the states had expected to present at the said hearing. The Federal Communications Commission arranged a conference with state representatives in Washington on June 11, 1941, which conference was attended by the presiding Commissioner in the instant proceeding. At such conference it was agreed that the most pressing and important problem of telephone regulation was the determination of a sound principle of separating

<sup>1</sup> *Smith v. Illinois Bell Tel. Co.* 282 US 133, 75 L ed 255, PUR1931A 1, 51 S Ct 65; *Lindheimer v. Illinois Bell Tel. Co.* (1934) 292 US 151, 78 L ed 1182, 3 PUR(NS) 337, 54 S Ct 658.

<sup>2</sup> An exception exists in New York intrastate toll rates.

## CALIFORNIA RAILROAD COMMISSION

telephone property, revenue and expense as between jurisdictions, together with an appropriate method whereby to apply the principle.

The separation problem had also been placed before the Federal Commission by a petition filed by the Bell Companies in which they requested the Commission to institute an investigation on its own motion to determine rules and methods for a separation between interstate and intrastate operations, and, after notice and hearing, to prescribe such rules and methods.

A joint staff committee, comprised of members of the staffs of the Federal and state Commissions, was appointed at that time to make the technical studies and prepare a report on separation methods. After the completion of the studies, the Federal Communications Commission, on June 9, 1942, instituted a formal investigation (Docket No. 6328) on its own motion. The separation report of the Staff Committee was attached to the order instituting the investigation, as well as a method proposed by a member of the staff of the Federal Communications Commission. Hearings were held in Chicago, Illinois, in August and October, 1942, before two members of the Federal Communications Commission and a panel of five cooperating state Commissioners, and the matter is now under submission before the Federal Communications Commission.

### *History of California Rates*

The first proceeding before the California Commission involving toll rates was Application No. 2 filed March 22, 1912, and decided on

November 14, 1913 (3 Cal RCR 903). This proceeding was heard prior to the time jurisdiction over exchange rates had been vested in the California Railroad Commission. At that time 15 per cent of originating tolls were allocated to exchange. The Commission said:

"It has been customary in the past to apportion 15 per cent of toll revenues to exchange accounts. We have made a most thorough investigation of the present method of apportionment and find that an allowance of 15 per cent to be credited to exchange accounts to handle these expenses of operation which are a part of the toll function and the value of such exchange equipment used in connection with toll service is unreasonably low and should be increased to 30 per cent. The telephone company has agreed to this apportionment and the agreement is of record in these proceedings. With a just apportionment of toll revenues so as to provide a proper allowance to be credited to exchange accounts, we know of no reason why the toll and exchange business should not be kept separately and each class of service bear its just proportion of supporting the institution."

In reviewing the history of proceedings before the California Commission and the fixing of the so-called Burleson schedule by the United States Government in 1919, Arthur B. Fry, telephone and telegraph engineer for the Commission, testified that in his opinion there had been no specific development of the terms "board-to-board" and "station-to-station" at the time of hearings in Application No. 2, but that there had been the intention to assign a fair share of tolls to the



## RE PACIFIC TELEPHONE & TELEGRAPH CO.

exchange. He reviewed the 1924, 1929, and 1936 orders fixing rates in the Los Angeles exchange and pointed out that the first definite use of the term "station-to-station" was in the order in Case No. 3800, in *Los Angeles v. Southern California Teleph. Co.* decided in 1936, 39 Cal RCR 769, 14 PUR(NS) 252.

Mr. Fry testified that in his opinion the station-to-station principle of separation of telephone plant, revenue and expense, should be adopted.

### *Principles Involved*

Evidence as to the principles involved was submitted by Edward F. McNaughton, director of the Public Utilities Department of the Commission, who, in his testimony submitted the following reasons for the adoption of the station-to-station principle of separation:

1. The station-to-station method is the only complete separation covering all operations from the calling telephone to the called telephone, while the board-to-board method applies to arbitrarily selected intermediate points.

2. There is a great diversity in toll use as between users. The great majority of toll calls originate at a relatively small percentage of stations. In California, a recent check shows that 70 per cent of the toll business originates at only 22 per cent of the stations. Under the board-to-board theory, part of the toll costs are borne by all the exchange subscribers.

3. Toll calls have increased and are continuing to increase at a higher rate than exchange calls. Toll facilities are being installed at a rapid rate and considerable research is being devoted to toll facilities, looking toward

improvements which reduce the cost of the service.

4. By far the larger amount of recent rate reductions has been made in toll rates rather than in exchange rates. The trend of long-distance rates, particularly for transcontinental service, has been decidedly downward, while exchange costs remain more or less fixed.

5. The board-to-board basis in and of itself does not provide full compensation to independent connecting companies. Thus, if settlements are made on a board-to-board basis, the exchange subscriber or independent connecting company is required to bear part of the toll service cost.

6. Fundamentally, the station-to-station separation should be adopted, since it clearly meets the test recognized by the United States Supreme Court in what is commonly termed the "Smith Case,"<sup>3</sup> namely, that by some practical method the different uses of the property may be recognized and the return properly attributable to the intrastate service may be ascertained accordingly.

The question of the adoption of either the station-to-station or board-to-board principle is under submission and awaiting decision by the Federal Communications Commission in Docket No. 6328. After the submission of that docket, however, the Federal Communications Commission entered a formal order of investigation of interstate toll rates, Docket No. 6468. In connection with an agreed settlement of the latter proceeding the American Telephone and Telegraph Company voluntarily refiled its inter-

<sup>3</sup> *Smith v. Illinois Bell Teleph. Co.* *supra*, footnote 2.

## CALIFORNIA RAILROAD COMMISSION

state rates on the station-to-station basis, effective as of February 1, 1943.<sup>4</sup> Effective the same date, The Pacific Telephone and Telegraph Company likewise refiled its interstate tariffs to include the station-to-station definition.

In the instant proceeding, A. T. George, counsel for The Pacific Telephone and Telegraph Company and the Southern California Telephone Company, stated that the rates of these respondents were upon a board-to-board basis, and argued that the board-to-board basis should be continued. Counsel presented no evidence, however, to support his view, but stated that the respondent Bell System companies would offer no formal objection if the Commission should adopt the station-to-station basis.

The California Independent Telephone Association, through C. F. Mason, its president, acting on behalf of its board of directors, filed a statement outlining the position of the association in favor of the station-to-station basis. Mr. Mason also filed a separate statement on behalf of Associated Telephone Company, Ltd., and San Joaquin Associated Telephone Company, likewise in favor of the station-to-station basis.

A. N. Johns, representing the California Water and Telephone Company and West Coast Telephone Company of California, testified in support of the station-to-station method, submit-

ting a statement designated Exhibit No. 3.

As is well known in the actual fixing of rates, other elements than cost of operation are considered. To the extent that costs of operation enter into the rate-making problem there should be one uniform and sound method for ascertaining what such costs are and that method should be, if possible, adopted and used on a nation-wide basis. The application of such uniform principle and method will result in the preparation of a statement of the plant, revenue, and expense applicable to both interstate and intrastate operations of the Bell System network and thereby provide the necessary information for the Federal and state Commissions on a sound and consistent basis.

It is apparent that it would now be highly unjust to the public to adopt the board-to-board theory for intrastate rate fixing, since interstate rates are now actually filed with the Federal Communications Commission on a station-to-station basis. If such a course were taken, the public would pay twice for the pro rata of exchange plant and expense assignable to interstate toll service on the station-to-station basis. Moreover, the record shows that while some uncertainty exists, California rates in the past generally have reflected the station-to-station principle, and the inadequacies of the board-to-board basis have been pointed out by this Commission.<sup>5</sup> The Los Angeles exchange rates in 1936

<sup>4</sup> A panel of five state Commissioners was named to represent the N.A.R.U.C. in the rate proceeding.

<sup>5</sup> Re Pacific Teleph. & Telegr. Co. (1913) 3 Cal RCR 903; Re Southern California Teleph. Co. (1924) 25 Cal RCR 721, PUR

1925C 627; Re Pacific Teleph. & Telegr. Co. (1929) 33 Cal RCR 737, PUR1930C 481; Los Angeles v. Southern California Teleph. Co. (1936) 39 Cal RCR 769, 14 PUR(NS) 252.

## RE PACIFIC TELEPHONE & TELEGRAPH CO.

were definitely fixed on a station-to-station basis.<sup>6</sup> Clearly from the very first decision, when the Commission had jurisdiction only over toll rates, it has been careful to insure that the exchange was adequately compensated.

We conclude that changes in the tariffs should be made whereby to resolve all uncertainties, if any, that may now exist. The testimony of Mr. Fry shows that the present definitions of toll service require no change. He recommends, however, the insertion of the following statement, as set forth in Exhibit No. 1, in the toll schedule to clarify the issue and definitely place these rates for the future on an unequivocal station-to-station basis:

"A toll telephone message is a completed call or telephonic communication between exchange stations where the called station is not within the local service area of the calling station, between toll stations, or between a toll station and an exchange station.

"The toll service charges specified in this tariff are in payment for all service furnished between the calling and the called telephones."

### Methods

Separations of telephone plant, revenue, and expense may be required for the following purposes:

1. A separation is required for jurisdictional purposes as between interstate and foreign service on the one hand, and intrastate service on the other hand.

2. A separation is required for regulation of intrastate rates by states like

California which regard the exchange as the basic rate-fixing area.

3. A separation may be required in the determination by the Commission of the results of exchange and toll operation of an independent telephone company operating both exchange and toll lines.

4. A fourth need for separation, and one important to the independent telephone companies, may occur when the Bell telephone companies and the independents are negotiating their connecting agreements.

5. A fifth necessity for separation arises in connection with the analysis of the periodical exchange and toll operation statements furnished this Commission by The Pacific Telephone and Telegraph Company and Southern California Telephone Company.

In testifying to these several purposes, Mr. McNaughton stated there was no necessity at this time for the Commission to prescribe detailed methods for separation of independent operators, in so far as Commission regulation is concerned.

In respect to the method for separation for jurisdictional purposes between state and interstate operations, Exhibit No. 2 was testified to by Walter B. Wessells, senior engineer of the Commission staff. This exhibit summarizes the methods recommended to the Federal Communications Commission in Docket No. 6328 by a joint staff committee of fourteen of the Federal Communications Commission and National Association of Railroad and Utilities Commissioners. Mr. Wessells participated as a member of the subcommittee in drafting the report at Washington and New York in 1941. He testified as to the detailed

<sup>6</sup> *Los Angeles v. Southern California Teleph. Co.* *supra*, footnote 5.

## CALIFORNIA RAILROAD COMMISSION

methods recommended, including separation of plant, revenue and expense.

The Commission is of the opinion that this case should be held open for determination at a later date of methods and the application of such methods to company records and operations. It is also expected that the Federal Communications Commission will, at an early date, adopt separation methods for interstate operations which may become a guide for the states to use in determining intrastate earnings.

Other phases of this investigation which will likewise be held open are:

1. The development by the staff of this Commission in cooperation with The Pacific Telephone and Telegraph Company of a method of exchange and intrastate toll separation consistent with Federal practice;

2. The application of the method to the annual exchange and toll earning statement for The Pacific Telephone and Telegraph Company and Southern California Telephone Company in lieu of the statement presently filed with this Commission;

3. The consideration, jointly with other states served by The Pacific Telephone and Telegraph Company, of an equitable method of allocation of the depreciation reserve and such other elements of cost common to more than one state.

The Pacific Company and American Telephone and Telegraph Company should restate their memorandum of agreement of March 10, 1936, to eliminate the following words on pages 10 and 11 thereof; "except the exchange service facilities required to establish connection between an ex-

change station and the toll terminal plant, for the use of which excepted facilities the licensee is compensated by its rates for exchange service in such exchange," The Pacific Company and its subsidiary should also restate on a station-to-station basis any other subsisting contracts or arrangements resting upon the board-to-board basis.

We find the station-to-station principle of cost allocation to be just and reasonable and that it should be adopted. The order will provide for the filing of tariffs consistent with this finding. This proceeding will be held open, however, as indicated, for further consideration of methods and the application thereof.

The above-entitled proceeding having been heard and submitted with respect to the issue of principle alone, therefore,

### ORDER

It is hereby *ordered* that The Pacific Telephone and Telegraph Company and Southern California Telephone Company refile, not more than thirty days from date hereof, their schedules for Message Toll Telephone Service to include the following statement:

"A toll telephone message is a completed call or telephonic communication between exchange stations where the called station is not within the local service area of the calling station, between toll stations, or between a toll station and an exchange station.

"The toll service charges specified in this tariff are in payment for all service furnished between the calling and the called telephones."

This proceeding shall be held open

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for such further order as to methods which may be appropriate.

For all other purposes, the effective date of this order shall be twenty days from the date hereof.

The foregoing opinion and order is hereby *ordered* filed as the opinion and order of the Railroad Commission of the state of California.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Benjamin H. Davis et al.

v.

Cheltenham & Abington Sewerage Company

[Complaint Docket No. 10967.]

*Reparation, § 50 — Time limit — Customers not filing petitions.*

Utility patrons paying rates found by Commission order to be excessive are not barred from claiming reparation because of their failure to file a complaint or petition within the time limit prescribed by law, as all such patrons are entitled to reparation regardless of whether they were parties to the rate proceeding.

[May 25, 1943.]

**P**ETITION for rescission of order permitting intervention in rate proceeding; dismissed.

By the COMMISSION: This matter is now before us upon petition of the respondent utility for rescission of our order dated March 1, 1943, permitting Glenside Home Protective Association, Inc., an original complainant, and assignee and attorney in fact for various patrons of Cheltenham and Abington Sewerage Company to intervene on behalf of certain patrons in addition to those already represented by the Protective Association in the present proceeding by virtue of the original complaint and by virtue of our order of March 2, 1936, permitting intervention on behalf of certain assigning patrons. An answer

to the petition for rescission has been filed by the Protective Association.

The petition for rescission alleges, inter alia, that the utility was not afforded an opportunity to answer the petition of the Protective Association, which resulted in our order of March 1, 1943. We think that adequate opportunity for objection existed after service of the petition upon counsel for the utility, but the point is not, in our view, determinative, and we will consider the issue on the merits.

The petition is essentially grounded upon the allegations that no reparations will be awarded to the patrons affected by our order of March 1,



## PENNSYLVANIA PUBLIC UTILITY COMMISSION

1943, since under the decision in *Cheltenham & A. Sewerage Co. v. Public Utility Commission* (1942) 344 Pa 366, 43 PUR(NS) 477, 25 A(2d) 334, the cause of action for reparations involved in this proceeding accrued August 30, 1935, and that no reparations may be awarded to any patron not filing his complaint or petition "within the time limit prescribed by law." Strangely enough, in view of the stress placed upon the point by the petitioner, no limitations of law are identified, either by reference to any law, or by statement of the limitations. In this situation, we might properly dismiss the petition as not sustained by its allegations. However, we desire to avoid for the future so far as possible, the many pleadings and counterpleadings which have complicated this record, and we will therefore assume for the purpose of discussion that the petition refers to the provisions of Art. V, § 5, of the Public Service Company Law that "no reparation shall be awarded by the Commission unless the complaint or petition shall have been filed within two years from the time when the cause of action accrued."

Apparently, petitioner contends that, since the patrons affected by our order of March 1, 1943, had not previously appeared by name in the present record, no reparation may be awarded to them. This contention must be determined adversely to petitioner under *Manning v. Newville Water Co.* (1933) 111 Pa Super Ct 229, 3 PUR(NS) 370, 377, 169 Atl 254. The appellant in that case argued that no reparation could be awarded except to those who within two years of excessive payment complained to or peti-

tioned the Commission. The court rejected this contention saying, at page 240 of the opinion:

"The Public Service Commission was created not only for the protection of the service company but also for the consumer, and to say that after the Commission had exercised its powers it had no authority to order reparation except to those who had filed complaints, would destroy the very purpose that investigation made by the Commission was intended for. In the event that such a rule was required, thousands upon thousands of petitions would have to be filed when a single complaint could accomplish the same purpose. In the event that complaints had not been filed by thousands of its consumers, all the overcharges or excess payments would be retained by the service company. The order of the Commission declaring that a proposed rate was unjust and unreasonable redounds to the benefit of every consumer who has paid the unreasonable rate, and the Commission is the proper forum to present his petition for reparation, regardless of whether he joined as a complainant."

Under the above holding, all of the patrons of Cheltenham and Abington Sewerage Company paying rates found to be excessive are entitled to reparations for a period fixed in accordance with the supreme court decision in *Cheltenham & A. Sewerage Co. v. Public Utility Commission*, above cited, and we need not consider the effect of the Public Utility Law provision, Art. III, § 313(a) that "Any order of the Commission awarding a refund shall be made for and on behalf of all patrons subject to the same rate of the public utility."

## DAVIS v. CHELTENHAM & ABINGTON SEWERAGE CO.

The practice under Art. V, § 5 of The Public Service Company Law accorded with our interpretation of the controlling rule, as evidenced by the Commission decision in *Allday v. Chambersburg Gas Co.* (1937) 16 Pa PSC 566, 583, 20 PUR(NS) 329, wherein reparations were ordered paid "to all and every consumer" who had paid the excessive rates.

As a practical matter, it is clear that record identification of consumers entitled to reparation is very helpful to proper and speedy determination, and it is also obvious that the avoidance of an avalanche of individual con-

sumer petitions separately filed is very desirable.

Upon the basis of the above considerations, respondent's petition for rescission must be dismissed; therefore,

Now, to wit, May 25, 1943, it is ordered: That the petition of Cheltenham and Abington Sewerage Company for rescission of our order dated March 1, 1943, be and is hereby dismissed.

Commissioner Buchanan being absent did not participate in the vote on this order.

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### CONNECTICUT PUBLIC UTILITIES COMMISSION

## Re New Haven Water Company,

[Docket No. 7075.]

*Rates, § 186 — Burden of proof — Filed schedules.*

1. The burden of showing the reasonableness of rates filed by a public utility is upon the company, p. 232.

*Valuation, § 39 — Reproduction cost — High prices in war period.*

2. Great weight should not be given to reproduction cost and abnormally high prices in a war period when considering actual cost and reproduction cost for determining a rate base, p. 237.

*Valuation, § 330 — Going concern value.*

3. Going concern value has been minimized or discredited in decisions of the United States Supreme Court, particularly where a reproduction cost estimate containing allowances for miscellaneous costs of construction has been a primary factor in establishing a rate base, p. 237.

*Valuation, § 31 — Rate base determination — Demand for service — Capitalization of earnings.*

4. Consideration of the demand for service rendered by a utility company to determine the value of the property, which value, in turn, determines how much should be charged for the service, results in the fallacy of circular reasoning through the capitalization of prospective earnings for the purpose of establishing a rate base which should determine how much should be earned, p. 238.

## CONNECTICUT PUBLIC UTILITIES COMMISSION

### *Valuation, § 21 — Rate base determination — Character of property — Physical and operating conditions — Character of service.*

5. Character of utility property, its physical and operating conditions as revealed by observations and study of operating records, and the excellent character of the service rendered, however relevant in establishing a fair rate of return, are not appropriate factors to be considered in determining fair value, p. 238.

### *Valuation, § 83 — Doctrine of supersession — Cost of reproducing service.*

6. The doctrine of supersession, involving a contention that an additional investment should be made to complete a water development which, if made, would render much of the old property of a water company obsolete, represents the cost of reproducing the service so far as the additional expansion is concerned—supersession being identical with functional depreciation, p. 239.

### *Valuation, § 27 — Prudent investment or cost of reproducing service.*

7. A witness cannot consistently use prudent investment in those cases in which it supports his claims and, at the same time, reject prudent investment, substituting therefor the cost of reproducing the service or supersession, in those cases in which prudent investment does not support his contentions as to fair value, p. 239.

### *Valuation, § 193 — Property used or useful — Project approved by Commission.*

8. It would be difficult, if not unconscionable, for the Commission, even assuming that wells were the solution of the problem of a water utility and that they could produce a sufficient quantity of water at less expense than another water project, to penalize the company for undertaking the latter project when it has had the sanction and approval of the Commission, p. 241.

### *Return, § 115 — Water utility.*

9. No necessity exists to establish a fair value or fair rate of return for a water company when, irrespective of the conclusions which might finally be reached, the Commission finds the rates are not and have not been since the effective date of a filed rate schedule more than just, reasonable, and adequate, in view of a showing that for the past five years the rate of return on various bases has varied from 2.39 per cent to 6.53 per cent, p. 243.

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### *Valuation, § 39 — Rate base — Reproduction cost.*

Discussion, in case where decision on reproduction cost is found to be unnecessary, of the element of speculation which reproduction cost introduces into the utility picture and of its operation against the public in a period of falling prices because no Commission would dare be consistent to the point of reducing the rate base upon a reproduction cost estimate in such a period, with resulting danger to the solvency of the utility and hence its capacity to render adequate service; and statement that the more recent decisions of the United States Supreme Court have freed Commissions from the binding force of reproduction cost estimates in the determination of fair value, p. 242.

### *Expenses, § 109 — War taxes.*

Discussion of war taxes as an operating expense in arriving at a fair rate of return, in case where such issue is said to be academic in that the exclu-

## RE NEW HAVEN WATER CO.

sion of war taxes would necessitate, as a means of maintaining the integrity of the investment and insuring the ability of the company to render adequate service, an appropriate modification in what constitutes a fair return, p. 243.

[June 21, 1943.]

**I**NVESTIGATION of rates and service of a water company; rates found not to be more than just and reasonable and adequate.

**APPEARANCES:** William B. Gumbart and Arthur L. Corbin, Jr., for the New Haven Water Company; Vincent P. Dooley, Corporation Counsel, and A. Frederick Mignone, Ass't Corporation Counsel, for the city of New Haven; Bernard Pellegrino, for the town of Hamden.

By the **COMMISSION:** In its earlier finding in this matter, dated October 20, 1941, entitled: "Memorandum and Order on Motion of the city of New Haven," the Commission discussed at length the events leading up to the present investigation made under direction of the governor, dated July 11, 1941, of the rates and service of the New Haven Water Company filed August 8, 1939, and effective November 1, 1939. A majority of the Commission found therein that the rates of the company filed August 8, 1939, had been unlawfully put into force on November 1, 1939, for lack of a hearing thereon and concluded as follows:

"1. The Commission, exercising the power vested in it under § 3586 of the General Statutes, Revision of 1930, after hearings on August 5, 1941, and September 18, 1941, upon prior notice to all parties in interest, for cause found as set forth above, revokes and rescinds its order or action made on August 14, 1939, in its Docket No. 6812 finding no occasion

to suspend the effective date of the amended rate schedule of the New Haven Water Company filed with the Commission on August 8, 1939, to become effective November 1, 1939.

"2. The New Haven Water Company is hereby directed to establish and put into effect as its maximum rates and charges, effective for the city of New Haven and all towns except Orange served by the New Haven Water Company, its maximum rates and charges on file prior to August 8, 1939, and in force prior to November 1, 1939; to become effective, with respect to patrons on a fixture rate basis for all bills rendered such patrons on and after January 1, 1942, and for all patrons on a metered rate basis to become effective for all bills based on meter readings on and after January 1, 1942. The New Haven Water Company is authorized, if it so desires, to retain in force the present metered rates for users of large volumes of water in the industrial classification for the reason hereinbefore set forth, subject to such amendment, if any, as the Commission may find necessary in the public interest.

"3. The New Haven Water Company shall continue to retain the revenues collected by it from November 1, 1939, to January 1, 1942, in excess of revenues that would be derived under the schedule of rates in force prior to November 1, 1939,

## CONNECTICUT PUBLIC UTILITIES COMMISSION

pending a final order of the Commission upon its present rate investigation.

"4. The motion of the city of New Haven that the Commission not proceed with its pending rate investigation is denied for the reasons hereinbefore set forth."

Commissioner Alsop, in his dissenting opinion, found that the rates in question had not been put into force unlawfully and stated with respect to the motion of the city of New Haven that the Commission not proceed with its pending rate investigation, as follows: "I think the particular claim the city is now making should be disallowed."

"I have been ready since October 5, 1939, to take full part in any hearing or further investigation in connection with the rates of the New Haven Water Company, and am still ready so to do in accordance with the instructions received from His Excellency, Governor Hurley, on July 14, 1941."

That earlier "Memorandum and Order on Motion of the City of New Haven," dated October 20, 1941, is incorporated by reference and made a part of the instant finding.

An appeal was taken by the company to the superior court for New Haven county from the finding of the Commission, dated October 20, 1941, which appeal has since lain dormant. Under the provisions of § 3612 of the General Statutes the appeal acted as a supersedeas of the Commission's finding so that the rates filed August 8, 1939, effective November 1, 1939, have remained in force, subject to an agreement, however, between the company and the Commission that the company would "maintain its books of account until final determination by

the Commission, or on appeal by the courts, upon its amendment of its rate schedule increasing rates November 1, 1939, so as to insure the refunding to its customers of any amounts collected from such customers in excess of rates fixed upon such final determination, and this company hereby agrees to make such refund if any shall finally be determined to be due."

After the issuance of its preliminary memorandum and order, dated October 20, 1941, the Commission proceeded to investigate the reasonableness of the rates and charges of the New Haven Water Company, effective November 1, 1939, in a series of hearings occupying seventeen days over a period of time beginning November 12, 1941, and concluding April 22, 1943. Detailed briefs carefully prepared by counsel for the parties in interest were filed May 28, 1943. During the course of the hearings, two members of the Commission and members of its engineering staff, together with representatives of the water company and the city of New Haven, inspected the physical property of the company.

The increase in revenues of the company which the rates under investigation were designed to yield approximated \$125,000 on an annual basis (Page 1, Memorandum and Order on Motion of the city of New Haven, dated October 20, 1941).

[1] At the opening of the hearing on November 12, 1941, the Commission stated that its investigation pursuant to the direction of the governor, acting under the provisions of § 1414c (d) Cumulative Supplement to the General Statutes, was to determine



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whether the rates filed with the Commission by the New Haven Water Company on August 8, 1939, effective November 1, 1939, were unreasonably discriminatory or more or less than just, reasonable, and adequate or that the service furnished by the New Haven Water Company, pursuant to such rates, was inadequate to or in excess of public necessity and convenience. The burden of showing the reasonableness of the rates in question was placed upon the company by the Commission pursuant to the provisions of § 616f of the 1941 Supplement to the General Statutes. The Commission ruled further that the investigation of the rates would concern two periods of time—the reasonableness of the rates at the time they became effective, November 1, 1939, and their reasonableness as of the time of the investigation itself. Whatever may be the scope of the Commission's powers and duties under § 1414c(d) of the Cumulative Supplement to the General Statutes in its investigation of the rates of the company, the company limited its claims during the hearings to the reasonableness of the rates made effective November 1, 1939. In a letter directed to the Commission under date of November 16, 1942, the company specifically stated that it did not intend in this proceeding to ask for rates higher than those made effective November 1, 1939.

The New Haven Water Company and the city of New Haven submitted in evidence a large number of technical exhibits relating to their respective contentions—46 exhibits for the company and 42 for the city. Five exhibits were introduced by the Com-

mission itself, thus comprising 93 exhibits in all. The transcript embraces 1,192 typewritten pages. The company submitted testimony through seven expert witnesses; three engineering experts, two accounting experts, one financial expert and a geologist. The city of New Haven called four experts, three engineers, and an economist specializing in the field of public utilities. The Commission called its chief accountant and a member of its engineering staff as witnesses.

Messrs. Pirnie, Blair, Minor, Hoyer, Longwell, Fuller, and Schreiber were experts for the New Haven Water Company, the first two being consulting engineers, the third being the engineering vice president of the company. The last four experts, respectively, testified in the fields of finance, geology, and accounting. The engineering experts for the city of New Haven were Clyde Potts, Stanley N. Williams, and Weston Gavett, all of whom are associated as consulting engineers. Dr. John Bauer, a consulting economist in the field of public utilities, was the principal expert for the city.

At the present time the New Haven Water Company distributes water to the inhabitants of New Haven, Bethany, Branford, Cheshire, East Haven, Hamden, North Branford, North Haven, Orange, West Haven, and Woodbridge, and through the controlled Milford Water Company to Milford inhabitants.

The rates of the company throughout its chartered territory prior to the rates made effective November 1, 1939, had been fixed by the Commission following a detailed rate investigation which is summarized in Com-

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mission's Docket 5650, dated May 2, 1932, PUR1932E 97. The city of New Haven as well as the other towns served by the company were parties to that proceeding. The finding and order of the Commission in that docket which prescribed a higher level of rates for water throughout the company's entire territory was sustained on appeal. (New Haven v. New Haven Water Co. [1934] 118 Conn 389, 5 PUR(NS) 319, 172 Atl 767.) Docket 5650 contains, among other things, the history of the company, its rate structure prior to that docket under contractual relations with the city of New Haven, the sources of the company's water supply, including the most recently constructed source, known as the North Branford development, and the unification of all of the company's sources of supply. Reference is had to that docket respecting these matters.

In the present investigation much of the testimony of the parties in interest and many of the exhibits filed by them, as well as briefs of counsel, related to the several original sources of the company's water supply and to the North Branford development, the principal issue in that respect being whether this development was fully used or useful in the performance of the company's service to the public. This matter is discussed in detail below. The remainder of the testimony and exhibits related to the controversial elements in any rate case, namely, the fair value of the company's property and a fair rate of return to be allowed thereon.

Since the description of all of the company's sources of water supply, including the North Branford de-

velopment, are contained in the Commission's earlier Docket 5650, a description of them is not repeated here.

It appears sufficient with respect to the North Branford development to summarize some of the salient facts relating to it. It is located in the town of North Branford and comprises Lake Gaillard, Lake Menunkatuc, and the Gulph Diversion System, the first lake having a storage capacity of 15,642,000,000 gallons and the second lake a storage capacity of 203,000,000 gallons. Water from Lake Menunkatuc is diverted into Lake Gaillard through a tunnel called the Sugar Loaf tunnel. The construction of the North Branford development was begun in 1925 and completed in 1933. The drainage area directly tributary to Lake Gaillard comprises 8 square miles. However, the total drainage area supplying water to Lake Gaillard has been increased to 16.2 square miles by the addition of the drainage area tributary to Farm river and Lake Menunkatuc. The North Branford development was designed primarily as a gravity system. The elevation of the top of its spillway above sea level is 190 feet. It is not deemed practicable to draw water down in the lake below elevation 170, due to the fact that the water flows from Lake Gaillard westerly through the Great Hill tunnel, thence in a 48-inch transmission main to twin distributing reservoirs in New Haven, located on Mill Rock at elevation 160 feet. In the company's search for an additional supply to their water system, previous to the development of North Branford, an engineering study of the territory between the Housatonic river

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and the Connecticut river indicated that there was no other appropriate area in which a large reservoir could be constructed.

A large 48-inch main leads from Lake Gaillard passing under the Quinipiac river into the city of New Haven, and ties in with all the feeder systems. The main, gradually reducing in size, continues over to West Haven where there is a pumping station, known as Jones Hill station, which pumps water into a standpipe on Shingle Hill, thus boosting the pressure. With the completion of the 48-inch pipe line from Lake Gaillard into the city, a new water table was established over the city raising the pressure from approximately 40 pounds per square inch to 55 to 60 pounds per square inch, greatly improving service to high buildings. The effective pressure has been improved between 37 per cent to 50 per cent.

The comprehensive plan of the North Branford development in its design embraced provision ultimately for a new reservoir to the east of Lake Menunkatuc tapping the drainage area of the Hammonasset river, the waters of which would be carried through a connecting tunnel to Lake Menunkatuc and thence through the present Sugar Loaf tunnel into Lake Gaillard. Hammonasset river and Genesee Diversion would add about 34 square miles to the drainage area supplying water to Lake Gaillard. The cost of the Hammonasset river diversion was estimated by the company at approximately \$2,500,000.

The safe daily yield of water from all of the company's present sources of supply was estimated at 38,000,000

gallons a day in a 95 per cent dry year. A 95 per cent dry year is one of such dryness that 95 per cent of the years will be wetter than that year and 5 per cent of the years will be drier. Of this total of 38,000,000 gallons, the North Branford system, as presently developed, supplies 15,000,000 gallons and the original sources of supply afford 23,000,000 gallons. At the present time the average daily draft of water on the company's system approximates 32,000,000 gallons a day. At the time construction was begun on the North Branford development in 1925 the average daily draft of water was close to 26,000,000 gallons a day. This daily draft increased slowly after 1925 to a maximum of nearly 29,000,000 gallons in 1929 and then slowly decreased to the 1925 level until the draft again picked up in the period preceding the outbreak of war. This increase in the average daily draft in the war period to 32,000,000 gallons a day at the present time is due primarily to the increased industrial demand for water.

### *North Branford Development and Used and Useful Property*

In considering the mass of testimony and exhibits relating to the North Branford development, it is pertinent to examine in some detail the testimony of witnesses for the water company and for the city.

In the course of the proceedings before the Commission the expert witnesses for the city of New Haven claimed that the North Branford development in its present stage represents an unwise investment in that it is more than adequate as a supplement

## CONNECTICUT PUBLIC UTILITIES COMMISSION

to the company's original sources of supply whereas it is less than adequate as a substitute for those original sources. In considering this claim it might be said that the New Haven Water Company now finds itself in a stage of development which might be likened to that of adolescence in the human species. Admittedly Lake Gaillard was designed and constructed to collect water from a much larger drainage area than that presently tributary to it—16.2 square miles. Mr. Pirnie testified that the usefulness of Lake Gaillard would be enhanced when, as, and if the Hammonasset river diversion is constructed. It is patent that a water system cannot be constructed always in sections ideally designed to meet its needs at the time construction must be undertaken. However, these "growing pains" of business adolescence require the regulatory board to consider the interests of both customers and investors so that justice will be done to both.

The New Haven Water Company is in a stage of development which will show a decreasing investment per unit of increased delivery of water from the present time until the completion of the North Branford development by the construction of the Hammonasset river diversion. This is contrary to the usual experience of a water utility in that water is ordinarily produced under conditions of increasing investment per unit of increased delivery. This condition in the case of the New Haven Water Company appears to arise out of the excess capacity of Lake Gaillard at the present time with reference to its tributary drainage area and also to

the higher price levels obtaining since the period of the first World War, the period in which Gaillard was constructed, in contrast with the lower price levels obtaining in the period before the first World War, during which time the original sources of supply were constructed. This generalization will be illustrated by the figures cited below. The sources of supply of the New Haven Water Company, prior to the Gaillard development, represented an investment of approximately \$3,395,000. This investment gave a safe daily yield of approximately 23,000,000 gallons of water. In other words, a capital investment of \$147,600 was necessary, on the average, for each 1,000,000 gallons of safe daily yield of water. The investment to date in Lake Gaillard is approximately \$7,128,000. This investment yields 15,000,000 gallons of water daily. Hence there is an investment of \$475,000 for each 1,000,000 gallons of safe daily yield of water.

An additional investment of approximately \$2,500,000 will add 25,000,000 gallons of safe daily yield of water. In other words, every \$100,000 of added investment in sources for water up to the point of completion of the project as originally designed will produce approximately 1,000,000 gallons of safe daily yield of water. The increments of investment necessary for 1,000,000 gallons of safe daily yield will, therefore, upon the completion of the project, drop from \$475,000 to \$100,000, or a drop of approximately 79 per cent. With the completion of the project the company's water collecting system will show an investment of about \$13,-

# RE NEW HAVEN WATER CO.

020,000. This investment will produce about 63,000,000 gallons safe daily yield of water from all sources. In other words, the average cost of sources of water, upon the completion of the project, will show an investment of approximately \$207,000 for every 1,000,000 gallons of safe daily yield of water. Under these circumstances, assuming an expansion of population and a demand for additional water, the additional water can be supplied at a decreasing marginal or incremental investment cost and also at a decreasing average investment cost for every 1,000,000 gallons safe daily yield. This cyclical fluctuation of average investment cost and marginal investment cost for the water collecting system, which is shown by the attached graph, is indicative of business adolescence and indicates the necessity for invoking the rule of reason in order to arrive at a pragmatic conclusion that does not outrage a sense of justice.

The property of the company which the city claims is not used or useful or as held in reserve is the following:

	Actual Cost Shown on Exhibits L & HH
Pine river, land and water rights	\$35,467
Branford reservoir, land and water rights .....	156,211
Branford, water collecting system	37,460
Branford, tanks and standpipes ..	19,986
Whitneyville, water rights .....	5,168
Whitneyville, buildings .....	16,860
Prospect street reservoir .....	5,238
Hammonasset and Genesee tracts	163,500
	\$439,890

Whatever might be the correct conclusion from the conflicting evidence as to whether all or any of these items should be excluded from a rate base, under decisions of the United States

Supreme Court (*Los Angeles Gas & E. Corp v. California R. Commission*, 289 US 287, 77 L ed 1180, 1195, PUR1933C 229, 53 S Ct 637 and *Columbus Gas & Fuel Co. v. Ohio Pub. Utilities Commission* [1934] 292 US 398, 78 L ed 1327, 1332, 4 PUR(NS) 152, 54 S Ct 763, 91 ALR 1403), their inclusion or exclusion in a rate base would not materially affect the results, as is shown in the indices of fair value claimed by the parties hereinafter set forth. This question need not, therefore, be determined.

[2, 3] Mr. Pirnie, as the principal expert for the company, claimed the fair value of its property used or useful in its public service was not less than \$25,000,000. The estimate of reproduction cost upon averaged prices of labor and material for the years 1936 to 1938 as estimated by the company and checked by the Commission's engineers, was \$28,010,000, based on property of the company in place May 15, 1939. The book cost of the company's property as of December 31, 1942, was \$18,373,720 and if the reserve for depreciation is deducted the resulting figure is \$14,592,788. Mr. Pirnie's opinion of \$25,000,000 thus represents approximately \$3,000,000 less than the reproduction cost estimate and about \$10,000,000 more than the net book cost of the property. In reply to a question Mr. Pirnie admitted that the proximity of his \$25,000,000 to the reproduction cost figure and to the book cost figure, respectively, indicated the relative weights he had given to those two elements. It appears definitely from his testimony as illustrated by this question and answer



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that he gave little consideration to the actual cost of the company's property in arriving at his opinion of \$25,000,000. It appears further that he gave considerable weight, in arriving at that opinion, not only to the reproduction cost estimate of \$28,000,000, but also to the abnormally high prices in the present war period of 1940, 1941, and 1942. This weight is not justified in arriving at an opinion of fair value (*West v. Chesapeake & P. Teleph. Co.* [1935] 295 US 662, 79 L ed 1640, 1648, 8 PUR(NS) 433, 55 S Ct 894; *Brooklyn Borough Gas Co. v. Public Service Commission*, 17 NY Off Dept R 81, PUR 1918F 335, Charles E. Hughes, Referee). He further included in his \$25,000,000 opinion of fair value a substantial amount for going concern value respecting which there was no evidence and which as an element of value has been minimized or discredited in recent decisions of the United States Supreme Court (*Dayton Power & Light Co. v. Ohio Pub. Utilities Commission* [1934] 292 US 290, 78 L ed 1267, 1280, 3 PUR(NS) 279, 54 S Ct 647, and *Columbus Gas & Fuel Co. v. Ohio Pub. Utilities Commission*, *supra*), particularly where a reproduction cost estimate containing allowances for miscellaneous costs of construction has been a primary factor in establishing a rate base (*Des Moines Gas Co. v. Des Moines*, 238 US 153, 59 L ed 1244, PUR1915D 577, 35 S Ct 811, and *Federal Power Commission v. Natural Gas Pipeline Co.* [1942] 315 US 575, 86 L ed 1037, 1051, 42 PUR(NS) 129, 62 S Ct 736).

[4] In his outline of the factors to be taken into account in establishing 49 PUR(NS)

a fair value figure, Mr. Pirnie said that he had considered, among other things, the demand for the service rendered by the company. Upon being questioned, he admitted that the demand for the service helped determine the value of the property, which value, in turn, determined how much should be charged for the service. In other words, he capitalized prospective earnings for the purpose of establishing a rate base which should determine how much should be earned, thereby falling into the fallacy of circular reasoning. Mr. Pirnie, in proving his case, proved too much. His theories do violence to the realities of the case, as is shown by the fact that the New Haven Water Company, at the present time, requests that it be permitted to earn only 2.7 per cent on what Mr. Pirnie regards as fair value. Investors do not willingly content themselves with this rate of return, which is comparable to that earned on Federal government bonds.

[5] He further testified that he gave considerable weight to the character of the property, its physical and operating conditions as revealed by his observations and study of operating records, and also to the excellent character of the service rendered by the company. These two indices, however relevant in establishing a fair rate of return, are not appropriate factors to be considered in determining fair value.

Mr. Pirnie overreached his mark in his testimony on fair value and thereby cast doubt upon the validity of his conclusions in this field. The Commission would be subject to serious criticism if it permitted itself to be

## RE NEW HAVEN WATER CO.

swayed by the testimony of an engineer who departs from his special field of engineering and invades the field of economic analysis.

[6, 7] The essence of Dr. Bauer's testimony was to prove that, under his doctrine of supersession, the old property of the New Haven Water Company should be depreciated further by \$2,358,493. He admitted that the books of the company reflected the investment of money that had actually been made. It was his contention that an additional investment of some \$2,000,000 should be made to complete the North Branford development and, if made, would render much of the old property obsolete. Supersession, as he used the term, is identical with functional depreciation. He thus expressed the opinion that the company's property used and useful in the public service is \$12,500,000 in value for rate-making purposes. Dr. Bauer insisted that he subscribed to the doctrine of prudent investment in establishing a rate base. He was asked if his doctrine of supersession did not represent "the cost of reproducing the service" so far as the additional expansion of Lake Gaillard is concerned. His answer to this query was "yes," in substance, that is, he arrived at the same result but by a different process of reasoning. Dr. Bauer submitted a memorandum in which he attempted to differentiate between the doctrine of supersession and that of the cost of reproducing the service. The Commission is unable, from an examination of this memorandum, to see that there is any substantive difference between the two concepts.

In cross-examination, Dr. Bauer

was asked whether or not he was familiar with Legislative Document (1930), No. 75, of the state of New York, incorporating the criticism of Dr. James C. Bonbright on what is known as the cost of reproducing the service. Beginning on page 371 of this document, Bonbright rejects the cost of reproducing the service for three reasons: (1) It is difficult to estimate the cost of a hypothetical, substitute plant; (2) the companies would be unable to attract the necessary investment, subject to this hazard, because the danger of losses are not offset by gains similar to those in unregulated industries; and (3) the law of competitive price is ruthless and involves a high mortality rate for industry. The public cannot afford such a casualty rate for utility companies upon which it depends for service.

Dr. Bauer admitted familiarity with this document and expressed concurrence with the views of Bonbright. In the light of the above comments, it is difficult to reconcile his answers to these questions with his theory of supersession. (See, for example, *McCardle v. Indianapolis Water Co.* 272 US 400, 71 L ed 316, PUR1927A 15, 47 S Ct 144.) Dr. Bauer, like Mr. Pirnie, overreached his mark and thereby weakened his position. He cannot consistently use prudent investment in those cases in which it supports his claims and, at the same time, reject prudent investment, substituting therefor the cost of reproducing the service, or supersession, in those cases in which prudent investment does not support his contentions as to fair value. Much of Dr. Bauer's testimony in the

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matter of supersession extended into the field of a waterwork's engineer. He was not qualified as an engineer in the introduction to his testimony and he is not an engineer. Whatever may be the dividing line between the field of the consulting economist and the waterworks engineer, his cross-examination showed clearly that his conclusions in the matter of supersession came from incursions into the field of engineering in which he did not qualify.

An illustration of this invasion of the engineering field in the matter of supersession is his omission to consider its effect upon service to high areas in the city of New Haven. Engineering testimony made clear that the completion of the North Branford development by the construction of the Hammonasset river and Genesee diversion could not result in the abandonment of all of the original sources of supply, overlooking for the moment whether dependence upon one source of supply would be a wise policy for the company to follow. Lake Gaillard functions efficiently as a gravity supply at an elevation of not less than 170 feet and its operating relation to the twin distributing reservoirs located on Mill Rock, in New Haven, whose elevations are 160 feet, would require the retention of certain reservoirs which now serve high areas in the company's territory and which cannot now be served efficiently by Lake Gaillard. These are Lake Wintergreen and Bethany in the West river system. In addition, Lake Whitney and Lake Saltonstall would have to be retained upon completion of the North Branford development. The former has a high daily yield of water

in dry weather which is helpful now and would be helpful on the completion of the North Branford development in times of drought. The alternative to retaining such of the original sources of supply would be the construction of additional distributing reservoirs in high areas of the company's territory, similar to the twin reservoirs on Mill Rock, with considerable enlargement of the pipe distribution system of the company. This additional construction is not included in the approximate estimate of \$2,500,000 as the cost of completing the North Branford development.

One of the city's engineers, in his approach to the problem of water supply as related to the North Branford development, gave his opinion that the original design and construction of the North Branford development should have been limited to the drainage area directly tributary to Lake Gaillard which, as stated above, is 8 square miles, and which would have given a dry weather yield of 6,000,000 gallons of water per day. Lake Menunkatuc and the Sugar Loaf and Gulph diversion tunnels, which make up the remainder of the drainage area of Lake Gaillard, would have been, thereby, omitted. Aside from the serious doubt in which this opinion was put by cross-examination of the expert and weighty engineering testimony in contradiction, it seems sufficient to observe that, since the problem related to the North Branford development, on account of the natural topography of the storage basin, has been to maintain water at an elevation of 170 feet, the diminution of the drainage area would greatly hamper, if not disrupt, the efficient functioning

## RE NEW HAVEN WATER CO.

of Gaillard as a gravity supply system.

Considerable testimony was introduced at the hearing by the city concerning the availability of underground water in the Mill river valley and Whitneyville Plain areas of the city of New Haven upon which testimony the city claimed that the New Haven Water Company could have secured sufficient quantities of water in 1925 by the construction of wells in these areas, thus obviating the necessity of constructing Gaillard reservoir. The Mill river valley and Whitneyville Plain areas drain into Lake Whitney.

Mr. Gavett, an engineer, testified for the city of New Haven in support of this contention and submitted a copy of Water-Supply Paper 540 of the United States Geological Survey. The author of this paper, John S. Brown, reported, on page 152 of that Survey, that "large quantities of water" would be available by the construction of wells in this area. He admitted that his conclusions were based largely on this report of the United States Geological Survey. This paper, incidentally, was published by the United States Geological Survey, and is dated, 1928, United States Government Printing Office. In upholding the contention that sufficient well water could be obtained, Mr. Gavett expressly stated that he based his opinion on this publication.

[8] In answer to this contention, the New Haven Water Company called, as a witness, Professor Longwell of the Geology Department of Yale University. He testified that he had been associated with the author of the aforementioned Water-Supply

Paper 540 in the study and investigation of water supplies in this area. He further testified that the "large quantities of water," referred to on page 152 of the Survey, in no way indicated the availability of 6,000,000 gallons daily as testified to by the city's witness, but rather that it indicated sufficient water would be available for use of residents of this area should they need to dig wells for their ordinary household requirements. Professor Longwell stated that there were no facts listed in the Survey from which one could reasonably conclude that the ground water in the Mill river valley is sufficient to take care of the needs of the city of New Haven. Amplifying this statement, Professor Longwell testified that the statement concerning abundant supply was a qualitative statement and not a quantitative statement. Professor Longwell testified that the geological formation in this area would not supply the amount of water reported by the city's engineer and if a substantial quantity of water were pumped from wells it would simply mean that the company would secure from wells the water which now supplies Lake Whitney and would, therefore, not add appreciably to the available supply of water. The city did not present any substantial refutation of Professor Longwell's thesis. In considering this phase of the testimony, the Commission concludes that the substitution of wells in the Mill river area in the city of New Haven, in lieu of the Gaillard project, would not supply the necessary water and that the Gaillard reservoir was the only reasonable and provident solution of the situation confronting the New Haven Water Com-

## CONNECTICUT PUBLIC UTILITIES COMMISSION

pany, Moreover, it would be difficult, if not unconscionable, for the Commission, even assuming that wells were the solution of the problem that existed and that they could produce a sufficient quantity of water at less expense than Gaillard, to penalize the company for undertaking the latter project, this project having had the sanction and approval of the Commission in 1932. (Commission Docket 5650, PUR1932E 97.)

### *Rate Bases*

In this case, the Commission, as indicated, has held extensive hearings over a period of approximately two years, has listened to all shades of opinion, involving practically every hue in the rainbow, as to economic philosophy and wisdom. Many of these theories are fantastic, diaphanous, and unrealistic. To produce this testimony, much of it having to do with the value of the property, both the city and the company have incurred substantial expenses. These expenses, in the last analysis, rest upon the ratepayer. When the United States Supreme Court, in 1898, in the historic case of *Smyth v. Ames*, 169 US 466, 42 L ed 819, 18 S Ct 418, mentioned cost of reproduction as an element to be considered in determining fair value, it did so at a time when the capital structures of railroads and utilities were saturated with watered stock and when there was no reliable record of the money that had actually been dedicated to the public use. Those conditions do not obtain in the instant case.

There is probably no topic in the

whole field of public utility regulation in which more divergent views have been expressed by all types of experts than in the field of fair value and the relation thereto of reproduction cost. No good purpose can be served by referring at greater length to this topic than to say that an added reason for rejecting cost of reproduction lies in the fact that it not only introduces an element of speculation into the utility picture but it also operates against the public in a period of falling prices because no Commission would dare be consistent to the point of reducing the rate base, upon a reproduction cost estimate in such a period, with resulting danger to the solvency of the utility and hence its capacity to render adequate service. Suffice it, therefore, to say that the more recent decisions of the United States Supreme Court have freed Commissions from the binding force of reproduction cost estimates in the determination of fair value. (See, for example, *Los Angeles Gas & E. Corp. v. California R. Commission*, 289 US 287, 77 L ed 1180, PUR1933C 229, 53 S Ct 637; *California R. Commission v. Pacific Gas & E. Co.* [1938] 302 US 388, 82 L ed 319, 21 PUR(NS) 480, 58 S Ct 334; *Federal Power Commission v. Natural Gas Pipeline Co.* [1942] 315 US 575, 86 L ed 1037, 42 PUR(NS) 129, 62 S Ct 736.)

However, no conclusion need be made by the Commission in this field of controversy since such conclusion is not necessary in arriving at a decision in the present case and was not requested by the company in justifying its present level of rates.



## RE NEW HAVEN WATER CO.

### *War Taxes*

The city of New Haven, through its expert witness, Dr. Bauer, claimed that war taxes should not be deducted as an operating expense in arriving at a fair rate of return. Doctor Bauer claimed that such taxes should fall properly upon the stockholders and represent the contribution of the owners to the cost of promoting the successful outcome of the war. No court, so far as the Commission knows, has, as yet, passed upon the propriety of the exclusion of war taxes. In the current case the issue is academic in that the exclusion of the war taxes would necessitate, as a means of maintaining the integrity of the investment and insuring the abil-

ity of the company to render adequate service, an appropriate modification in what constitutes a fair return. Hence, the tabulation set forth below includes all taxes. Irrespective of what name is attached to present taxes there is little prospect that tax rates in the proximate future will revert to the pre-war levels and thereby enable the New Haven Water Company to absorb them without making an appropriate reflection in its rate of return.

### *Summary of Financial Data*

[9] The following table indicates data that under all the claims of the parties in interest must be taken into account in reaching a decision in this case:

# CONNECTICUT PUBLIC UTILITIES COMMISSION

## NEW HAVEN WATER COMPANY

	1938	1939	1940	1941	1942	% of Operating Income to Each of the Indices of Value			
						1938	1939	1940	1941 1942
Operating Income .....	\$701,073	\$768,546	\$815,658	\$740,646	\$682,559				
Utility Plant per books .....	\$17,779,230	\$17,920,298	\$18,104,589	\$18,239,453	\$18,373,720				
Working Capital & Mtl. & Sup. ....	206,056	192,066	211,178	258,094	233,672				
Book Cost of Plant plus Working Capital (#1)	\$17,985,286	\$18,112,364	\$18,315,767	\$18,497,547	\$18,607,392	3.9	4.24	4.45	4. 3.67
Depreciation Reserve .....	2,964,915	3,172,613	3,373,298	3,561,273	3,780,932				
Book Cost of Plant plus Working Capital and less Depreciation Reserve .....	\$15,020,371	\$14,939,751	\$14,942,469	\$14,936,274	\$14,826,460	4.67	5.14	5.46	4.96 4.6
Book cost of Plant plus Working Capital less Depreciation Reserve and less Book Cost (439,890) of that property which the city claims to be nonused and useful .....	\$14,580,481	\$14,499,861	\$14,502,579	\$14,496,384	\$14,386,570	4.81	5.30	5.62	5.11 4.74
Reproduction Cost (per stipulation) ....	\$28,010,000	\$28,010,000	\$28,010,000	\$28,435,407	\$28,570,192	2.5	2.74	2.91	2.6 2.39
Pirnie's estimated fair value .....	\$25,000,000	\$25,000,000	\$25,000,000	\$25,000,000	\$25,000,000	2.8	3.07	3.26	2.96 2.73
Bauer's estimated fair value .....	\$12,500,000	\$12,500,000	\$12,500,000	\$12,500,000	\$12,500,000	5.61	6.15	6.53	5.93 5.46

## RE NEW HAVEN WATER CO.

This table shows that on the basis of index No. 1 the company has earned for the past five years a rate of return of 3.9 per cent; 4.24 per cent; 4.45 per cent; 4.0 per cent; 3.67 per cent. On index No. 2—4.67 per cent; 5.14 per cent; 5.46 per cent; 4.96 per cent; 4.6 per cent. On index No. 3—4.81 per cent; 5.30 per cent; 5.63 per cent; 5.11 per cent; 4.75 per cent. On index No. 4—2.5 per cent; 2.74 per cent; 2.91 per cent; 2.6 per cent; 2.39 per cent. On index No. 5—2.8 per cent; 3.07 per cent; 3.26 per cent; 2.96 per cent; 2.73 per cent. On index No. 6—5.61 per cent; 6.15 per cent; 6.53 per cent; 5.93 per cent; 5.46 per cent.

In view of the above data and all the evidence presented, the Commission concludes that it is unnecessary at this time to establish a fair value or fair rate of return for the New Haven Water Company in that, ir-

respective of the conclusions which might finally be reached, the Commission finds the rates of the company are not now and have not been since November 1, 1939, more than just, reasonable, and adequate under the provisions of § 1414c(d) of the Cumulative Supplement to the General Statutes, January Sessions, 1931, 1933, 1935.

The Commission further concludes that the New Haven Water Company need not make any refund to its customers of money collected from them under the rates in force since November 1, 1939.

We hereby direct that notice of the foregoing be given by the secretary of this Commission by forwarding by mail true and correct copies thereof to parties in interest, and due return make.

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## WISCONSIN PUBLIC SERVICE COMMISSION

### Re Mosel & Centerville Telephone Company

[2-U-1889.]

*Rates, § 574 — Telephones — Free interexchange service.*

1. Toll service between telephone exchanges was authorized to be established in lieu of existing free service where the volume of traffic was so great that existing facilities were seriously overloaded, where the company was prevented from obtaining additional facilities because of wartime priority restrictions, where the earnings were so unfavorable that prudent management would recommend the establishment of a toll rate which would have the effect of improving the service by decreasing the number of toll messages and at the same time providing additional revenues, and where there was a community of interest between the areas served, p. 249.

## WISCONSIN PUBLIC SERVICE COMMISSION

### *Rates, § 582 — Telephones — Toll charges.*

2. A 5-cent toll rate for telephone service between exchanges rather than a 10-cent rate should be authorized, in lieu of existing free interexchange service, where the revenue to be derived from the 10-cent toll rate would not be justified in view of the cost of such service and the financial condition of the company, and where the community of interest between the areas served is such that a 10-cent rate might be too burdensome, p. 249.

[June 3, 1943.]

**A**PPPLICATION to *discontinue free interexchange telephone service and to establish toll service in lieu thereof; granted and toll charges prescribed.*

By the COMMISSION: On February 20, 1943, the Mosel & Centerville Telephone Company, Route 1, Cleveland, Sheboygan county, filed application for authority to establish a toll rate of 10 cents per message for calls from its Mosel exchange to the Sheboygan exchange of the Wisconsin Telephone Company in lieu of the free service now available.

APPEARANCES: Mosel & Centerville Telephone Company, by Otto Wipperman, Secretary, and Harold E. Wipperman, Manager, Cleveland; of the Commission staff: William H. Evans, Rates and Research Department.

The Mosel & Centerville Telephone Company operates a telephone system in the region north of Sheboygan and south of Manitowoc. There are no incorporated communities in its service area. The company serves several unincorporated communities, the largest being Cleveland. The switchboard is located at Mosel which

is approximately 4 miles north of the city limits of Sheboygan. Most of the subscribers are farmers.

The geographic location of the subscribers is such that portions of the trading area of several larger communities are served; namely, Kiel, Elkhart Lake, Sheboygan Falls, Kohler, Manitowoc, and Sheboygan, and several unincorporated communities. Subscribers must pay a toll charge to talk to subscribers in all of these centers except Sheboygan.

The applicant has been operating since 1908. There are no bonds or other long-term debt outstanding. Current assets, including cash or working funds of \$9,462, exceed current liabilities by \$10,625. While the current financial condition is favorable, the present level of earnings is unfavorable and there was a reported deficit of \$913 for the year ended December 31, 1942. The company has paid no dividends since 1937. The following table summarizes the income account:

# RE MOSEL & CENTERVILLE TELEPHONE CO.

TABLE I  
Mosel & Centerville Telephone Company

Comparative Income and Expense Account and Analysis of Rate of Return				
	1942	1941	1940	1939
Revenues:				
Subscriber's station .....	\$11,830	\$11,841	\$11,553	\$11,293
Toll service revenues .....	1,201	925	696	588
Miscellaneous and uncollectibles .....	19	(16)	(13)	17
Total revenues .....	\$13,050	\$12,750	\$12,236	\$11,898
Operating expenses:				
Maintenance expense .....	\$3,543	\$2,789	\$3,050	\$2,564
Operators' wages .....	3,852	2,870	2,818	2,611
Switching fees .....	1,370	1,387	1,359	1,346
Miscellaneous traffic .....	56	(65)	111	296
General office salaries .....	1,089	1,446	1,454	1,448
Other general expense .....	1,283	1,094	1,063	942
Total above .....	\$11,193	\$9,521	\$9,855	\$9,207
Depreciation expense .....	1,850	1,786	1,735	1,674
Income taxes .....	233	290	132	177
Other taxes .....	687	822	797	695
Total revenue deductions .....	\$13,963	\$12,419	\$12,519	\$11,753
Utility operating income .....	\$(913)	\$331	\$(284)	\$146
Rate base:				
Utility plant in service .....	\$37,020	\$36,353	\$35,611	\$35,863
Materials and supplies .....	998	1,275	611	718
Cash working capital .....	1,119	952	986	921
Total above .....	\$39,137	\$38,580	\$37,208	\$37,502
Less—depreciation reserve .....	14,956	13,326	12,408	12,534
Net book value rate base .....	\$24,181	\$25,254	\$24,800	\$24,968
Rate of return earned .....	None	1.31%	None	.58%
6% return on rate base .....	\$1,451	\$1,515	\$1,488	\$1,498

The utility offers only one class of service, rural multiparty service. The switchboard is of the magneto type and all circuits are metallic. The present exchange rate is low in comparison with the rural rates of similar telephone companies. The average rate for seventeen comparable companies is \$1.50 per month as compared with the \$1.25 net rate of the applicant. Billings are made on a quarterly basis.

Since its organization the company has given its subscribers the privilege of calling subscribers of the Sheboygan exchange without a toll charge. The Wisconsin Telephone Company is compensated for the use of its facilities in handling these messages by

the payment of a flat sum of 15 cents per month per station. This compensation amounted to \$1,370 in 1942.

The secretary of the Mosel & Centerville Telephone Company testified that the stockholders have considered the possibility of establishing a toll rate for messages to Sheboygan on several occasions. On February 6, 1929, a motion was adopted to make a 4-cent charge. The company, however, was unable to reach an agreement with the Wisconsin Telephone Company regarding the use of that company's facilities. The matter was further acted upon at the 1941, 1942, and 1943 annual meetings. The applicant finally reached an agreement



# WISCONSIN PUBLIC SERVICE COMMISSION

with the Wisconsin Telephone Company in February of this year. The present proceedings were instituted as a result of this agreement.

The applicant owns jointly with the Wisconsin Telephone Company four metallic circuits which are used to connect the Mosel and Sheboygan switchboards for free interexchange service to Sheboygan. The Wisconsin Telephone Company owns 4.4 miles of the pole line and the Mosel Company the remainder, or approximately 6 miles.

Messages originating at the Mosel switchboard and destined for exchanges beyond Sheboygan, and messages originating in Sheboygan destined for Mosel, are routed over separate toll circuits owned by the Wisconsin Telephone Company. These messages take the standard Wisconsin Telephone Company toll rates and the ticketing and timing is done by the Wisconsin Telephone Company as provided in the standard toll

as provided in the standard traffic agreement. The Mosel Company would own or lease the entire circuit used to carry messages originating at the Mosel switchboard and terminating in Sheboygan. The effect of establishing a toll rate would be to add an annual lease payment of \$475 and relieve the applicant of the \$1,370 annual switching charge.

The record shows that the free toll circuits have been very busy. In 1942 free toll traffic averaged 665 calls per day. A special study was made prior to the hearing covering the period from April 14 to April 19, 1943. The greatest number of messages placed was 539 on April 15, 1943. Of this number 404 were completed and 135, or 25 per cent, were not completed because the circuits were busy. The number of free messages attempted declined as soon as the subscribers became aware that a check was being made. The study is summarized in the following table:

Analysis of Free Messages to Sheboygan  
134-hour Period, April 14th to 19th, Inclusive

Number of Messages per Subscriber Completed per Day	Number of Messages	Distribution of Subscribers %	Cumulative
Over 6 .....	91	.17%	.17%
6 .....	48	.17	.34
5 .....	70	.30	.64
4 .....	112	.61	1.25
3 .....	222	1.61	2.86
2 .....	444	4.82	7.68
1 .....	750	16.28	23.96
0 .....	...	76.04	100.00
Subtotal .....	1,737	100.00%	
Incompleted (line busy) .....	602		
Grand total .....	2,339		

contract. The 10-cent toll rate proposed by the applicant would be classified as a special toll rate. The revenue received would be kept by the Mosel Company and would not be divided between the two companies

This study revealed that the volume of traffic is so great that existing facilities are seriously overloaded. One message in four, on the average, is not completed because the circuits are in use at the time a call is attempted.

## RE MOSEL & CENTERVILLE TELEPHONE CO.

This ratio is probably higher at the peak hour. The applicant has received many complaints due to the poor service. The study also reveals that on the average only 24 per cent of the subscribers use the free toll service. It may be that the inadequacy of the service discourages many from using the facilities. The company is prevented from obtaining additional facilities because of wartime priority restrictions. In addition, the present earnings are such that prudent management would recommend the establishment of a toll rate which would have the effect of improving the service by decreasing the number of toll messages and at the same time providing additional revenues.

There are not sufficient data available upon which to make a separation of the cost of service between free toll, other toll, and exchange operations. The present low earnings cannot be attributed entirely to the increased cost of toll business since, as already mentioned, the exchange rate is relatively low.

It is difficult to estimate the number of messages that would be made under any particular rate. Consequently, the amount of revenue that would be derived is also conjectural. The proposed arrangement would save the Mosel Company approximately \$900 net per year, and would add to its earnings the revenue obtained from the proposed toll rate. The best available estimate of the volume of traffic to be expected at a 10-cent rate is 35 messages per day. On this basis the annual revenue would be approximately \$1,280 and the combined savings in expenses and

the increase in revenue would amount to approximately \$2,180 per year.

[1, 2] We are of the opinion that from the standpoint of service alone the record shows a need for the establishment of a toll rate. However, we believe that a 10-cent toll rate is not justified because the revenue that would be derived therefrom would be in excess of the amount necessary to compensate for the cost of such service or to insure the financial stability of the company. In addition, the present volume of traffic indicates a community of interest between Sheboygan and the area served by the applicant such that a 10-cent rate might be too burdensome.

We are of the opinion that a 5-cent toll rate with a 5-minute conversation limit should be authorized on a temporary basis pending further study. This suggested rate would require a minimum of operator supervision and recording time. No distinction would be made between person-to-person or station-to-station messages and no overtime charges would apply. The applicant should make a report for at least one month subsequent to the effective date of the new rate, showing the number of messages classified as shown in exhibit 1 and the amount of revenue collected. In addition it should make a monthly report for twelve months showing separately the total messages sent over the so-called "free" toll circuits and the amount of revenue obtained from the 5-cent toll service.

### *Finding*

The Commission finds:

That the rendition of service without toll charge by the applicant from its Mosel exchange to the Sheboygan

## WISCONSIN PUBLIC SERVICE COMMISSION

exchange of the Wisconsin Telephone Company is unreasonable and discriminatory and that the establish-

ment of a charge of 5 cents per message with a 5-minute conversation limit will be reasonable and just.

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Re West Penn Railways Company

[Application Docket No. 61964.]

*Service, § 42 — Jurisdiction of Commission — Franchise rights — Abandonment of service.*

1. The Commission is not bound by an ordinance agreement providing that a utility company may exercise its independent judgment in determining whether it should be relieved from operating over a certain route when in its opinion it becomes impossible to do so, or when such operations become unsafe, or the public would be best served by discontinuing the operation, since when a company dedicates itself to public service it also submits to Commission regulation, p. 252.

*Service, § 269 — Abandonment — Street railways.*

2. A street railway should be authorized to abandon service over a portion of its lines covering one city block where the track in that block is not in safe condition for street railway operations, materials are not available for repair of such tracks during a war emergency, and abandonment would not cause unreasonable hardship to the public, p. 252.

[May 10, 1943.]

**A**PPPLICATION for approval of abandonment of street railway service; approval granted.

By the COMMISSION: West Penn Railways Company operates a street railway system approximately 119 miles in length, including service between Greensburg and Irwin, in Westmoreland county. The tracks of the applicant enter Irwin on connecting streets and Main street, the facilities terminating at the intersection of Second and Main streets. No street railway service is presently being provided between Second street and Fourth street. In the instant application the company seeks our approval of the

abandonment of street railway service over that portion of its operations extending between Third street and Second street on Main street in the said borough. Protest was entered against our approval of the application by the borough of Irwin.

West Penn Railways Company acquired its right to operate on Main street between Second street and Third street in the borough of Irwin by virtue of an ordinance-agreement entered into between the borough and applicant on June 26, 1934, which permits the applicant to operate cars

## RE WEST PENN RAILWAYS COMPANY

on a track of the former Irwin-Herminie Traction Company (Manor Valley Railway Company) located between these points and on which service by the latter company had then been discontinued. The agreement was submitted to The Public Service Commission of the Commonwealth of Pennsylvania, docketed at M. C. 6886, and approved by that Commission on January 14, 1935. With respect to the ownership and operation on this track the ordinance provided as follows:

"The track shall be the property of West Penn Railways Company so far as the borough of Irwin can grant ownership in said track; but said railways does not assume any responsibility for replacement of said track when the same is worn out; and railways shall be relieved from operating on Main street between Third and Second streets, when, in its opinion, it becomes impossible to do so, or when such operation becomes unsafe, or the public is best served by discontinuing the operation over this portion of the track."

Apparently relying on this provision of the ordinance, West Penn Railways Company on September 19, 1942, notified officials of the borough of Irwin that in its opinion the aforesaid track between Second street and Third street was then in unsafe condition for operation and that pursuant to the aforesaid ordinance it intended to abandon street railway service between Third street and Second street in the said borough. Street railway service was accordingly discontinued over this track on September 20, 1942, the operations between Greensburg and Irwin thereupon terminating on

Main street at Third street. On September 21, 1942, representatives of the company were notified by the chief of police of Irwin borough that street railway cars must either be operated to Second street or terminate at Fourth street and that cars would not be permitted to operate to a terminus at Third street. Thereupon operations were resumed to Second street for a period of two days and on September 23, 1942, operations on this line were terminated at Fourth street and trolley service has been continued to the present in accordance with this practice.

The chief engineer of the respondent and its operating vice president both testified in detail concerning the measurements taken and studies made in reaching their determination that the track between Second and Third streets is not in safe condition for street railway operations. A street railway car operator, employed by the applicant, testified concerning several minor accidents which had involved cars he was operating over this portion of track and further testified that in his opinion the track between Third street and Second street is not in safe condition for street railway operation. Testimony was further submitted to the effect that between Second and Third streets the track descends on approximately a 5 per cent grade toward the end of the line; that the track is constructed of 9-inch tram girder rail, weighing 90 pounds to the yard, the head of which is presently worn to the extent 3/8-inch; that the track was constructed sometime between 1907 and 1911; and that it would cost approximately \$3500 to reconstruct the aforesaid track were

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

materials available for the construction. Witnesses further testified that, in so far as they were able to determine, the ties had probably deteriorated to the extent that they no longer give support to the rail.

Witnesses for protestant submitted testimony with respect to the need for continuing street railway service to the Second street terminus of the line in order that adequate service would be provided to the public; particularly those persons using the train facilities of The Pennsylvania Railroad Company, the passenger station of which is located a short distance north of Second street on Main street. Further testimony was submitted with respect to the inconvenience to persons attending the Public Library and a church in that vicinity by being required to walk an additional distance in order to board street railway cars. Testimony of other witnesses indicates that patrons of commercial establishments located in that vicinity are likewise required to walk additional distances in order to board the cars of the street railway company. No testimony was offered by protestants which would controvert the testimony of the applicant with respect to the alleged present unsafe condition of track between Second street and Third street in Main street.

Summarizing the foregoing, the record discloses that West Penn Railways Company has discontinued its street railway operations on a track constructed by another company and located between Second and Third streets in Main street in the borough of Irwin, Westmoreland county. The aforesaid applicant acquired from the borough its right to operate on this

track under certain conditions, one of which was that it would be permitted to discontinue operations if and when in its opinion the condition of the track became unsafe for street railway operation.

[1, 2] We are in no way bound by the provision of the ordinance-agreement whereby the applicant utility may exercise its independent discretion that it "shall be relieved from operating on Main street when in its opinion it becomes impossible to do so, or when such operations become unsafe, or the public is best served by discontinuing the operation over this portion of the track." The law is well settled that when an enterprise is devoted to the rendition of a service to the public it becomes imbued with the attributes of a public utility and the attendant dedication of service and facilities to a public use carries with it a submission to proper regulation. The legislature has delegated the discretionary powers encompassed by the quoted portion of the ordinance-agreement to this Commission and the fact that applicant has recognized the requirement of submitting those matters to our jurisdiction forecloses any further discussion of the efficacy or validity of any agreement inter se which by design or incident attempts to supplant our discretionary function.

The record further discloses that at the direction of officials of the borough of Irwin, the company has discontinued its operations on its tracks located on Main street between Third and Fourth streets, such directive allegedly having been issued by the borough in order to eliminate traffic congestion which would be caused by



## RE WEST PENN RAILWAYS COMPANY

street railway cars terminating their run at the intersection of Third street and Main street. No application has been filed with respect to the latter discontinuance and the company avers that it is willing to resume street railway operations between Fourth and Third streets on Main street whenever it is agreeable to the borough authorities. The testimony of protestant's witnesses with respect to necessity was coupled with the present operation to Fourth street rather than with the intermediate terminus of the line at Third street.

Review of the record in this proceeding clearly shows that the track constructed by Irwin-Herminie Traction Company (Manor Valley Railways Company) between Second and Third streets on Main street in the borough of Irwin, Westmoreland county, over which West Penn Railways Company has been operating its street railway cars since 1934 by virtue of an ordinance-agreement with the borough of Irwin, is not presently in safe condition for street railway operation. The record further discloses that it will cost \$3500 to reconstruct this one block of street railway tracks and that materials are not available for such construction and probably will not be available until after the war. Certainly the one block

additional walk from Second street to Third street required of a limited number of patrons of the street railway service of West Penn Railways Company cannot be described as an unreasonable hardship and we shall permit the abandonment of street railway service between Third street and Second street, due to the unsafe condition of the track over which operations were conducted under the ordinance-agreement.

The question as to whether the citizens of Irwin, patrons of the street railway company, should be required to walk the additional block between Third street and Fourth street, the actual terminus of operations under direction of the duly constituted authorities of the borough of Irwin, is a matter conducive to adjustment between the utility and officials of the borough of Irwin.

After full investigation of the matters and things involved, we are of opinion and find that approval of the abandonment of street railway service by West Penn Railways Company on Main street between Third and Second streets in the borough of Irwin, Westmoreland county, is necessary or proper for the service, accommodation, convenience, or safety of the public.

### LOUISIANA PUBLIC SERVICE COMMISSION

## Ex Parte George O. Thomas, Doing Business As Thomas Truck Line

[Order No. 2963, No. 3830.]

*Monopoly and competition, § 62 — Motor carriers — Duplication of service.*

The Commission may not issue a certificate for the operation of a motor

## LOUISIANA PUBLIC SERVICE COMMISSION

freight line where there is an existing certificate unless it be clearly shown that the public convenience and necessity would be materially promoted thereby.

[June 24, 1943.]

**A**PPPLICATION for authority to operate motor freight line;  
*denied.*

By the COMMISSION: In this proceeding George O. Thomas, doing business as Thomas Truck Line, of Ringgold, Louisiana, the present holder of Certificate of Public Convenience and Necessity No. 249 authorizing him to operate as a common carrier of property by motor vehicle over certain routes in North Louisiana, which routes touch U. S. Highway No. 71 at a point known as Loggy Bayou, Louisiana, seeks a supplemental certificate authorizing him to operate between Loggy Bayou and Shreveport, Louisiana, over U. S. Highway 71, which would enable him to perform through service between Shreveport and points on his present routes.

The matter was tried at regular session of the Commission held at Baton Rouge, Louisiana, on April 27, 1943, and after hearing the testimony offered by the applicant and by protestants, the Commission took the matter under advisement, giving the parties leave to file briefs. Having before it the record and the brief filed by protestant Leonard Truck Lines, the Commission further considered this matter as to final disposition in a business meeting held at Baton Rouge, Louisiana, on June 18, 1943.

Protestant Leonard Truck Line operates a daily motor freight schedule leaving Shreveport in the early morning, going by way of Loggy Bayou, Ringgold, Caster, Lucky and

Friendship into Jonesboro. It returns via the same route in the afternoon, unless the truck is carrying shipments consigned to Winnfield, in which case the truck makes the Winnfield deliveries and returns to Shreveport via another route, which is approximately twenty miles shorter. However, it is testified that if on the morning trip the driver is notified that there will be ready during the day shipments consigned to Shreveport, at Ringgold or any of the other intermediate points, the truck will return by that route to pick them up, regardless of whether deliveries have to be made at Winnfield or not.

The applicant's present routes connect at Minden with Leonard Truck Lines and with T. S. C. Motor Freight Lines, and applicant could, if he does not already do so, interchange freight with those carriers at that point. Applicant's routes also connect on Highway No. 71 with the routes of Herrin Motor Lines, Leonard Truck Lines, and L. A. & T. Transportation Company. Presently, according to the record, most of applicant's business to or from Shreveport is handled by connection with Leonard Truck Line.

The record herein does not indicate that there is a large movement of freight by common carrier motor lines between Shreveport and the points on applicant's present routes. With the exceptions of Minden, Coushatta, and Arcadia, which are located on the

## EX PARTE THOMAS

main routes of other carriers, the towns presently served by applicant are small, the largest being Ringgold with a population of approximately one thousand. All of the larger towns presently served by the applicant, therefore, already have direct daily motor freight connections with the city of Shreveport, and the smaller points can be reached from Shreveport by the applicant's connections.

In the light of the foregoing facts the Commission is of the opinion that the volume of traffic moved or to be moved between the points presently served by the applicant on the one hand and the city of Shreveport on the other is insufficient to warrant the operation of an additional motor carrier. While the additional operation proposed by the applicant might in some instances provide a more convenient service for some of the shippers in that territory—since, of course, the greater the number of carriers over a given route the greater the convenience, at least temporarily—it does not appear to the Commission

that the applicant has established the *necessity* for additional service over the route involved, or even, as to some points, that the proposed operation would afford a greater convenience.

As to the route directly concerned in the application, viz., between Loggy Bayou and Shreveport over U. S. Highway 71, the record contains no testimony of any weight to indicate a need for additional service over that route as such, it already being served by Herrin Motor Lines, L. A. & T. Transportation Company, Leonard Truck Lines and L. & A. Railway Company.

The law is clear that this Commission may not issue a certificate over a route where there is an existing certificate, unless it be clearly shown that the public convenience and necessity would be materially promoted thereby. In the opinion of the Commission, the record herein makes no such showing. It is, accordingly,

*Ordered*, that the application herein be and it is hereby denied.

---

## INDIANA SUPREME COURT

# Terre Haute Gas Corporation et al.

v.

# Lenore H. Johnson et al.

[No. 27736.]

(— Ind —, 48 NE(2d) 455.)

*Appeal and review, § 67 — Modification of order to reconvey property — Commission authorization subsequent to court ruling.*

A mandate of an appellate court requiring the reconveyance of properties

## INDIANA SUPREME COURT

and restoration of ownership, management, and control of the property, upon a determination that the Commission order approving the property transfer was invalid, should be amended by striking out such requirements when it appears that the Commission has subsequently entered orders approving the property transfer, as no good purpose would be served by requiring the parties to restore the status quo ante.

[May 11, 1943.]

**P**ETITION for rehearing and for modification of mandate on appeal from Circuit Court judgment setting aside Commission order which approved sale of utility property; petition for rehearing denied and mandate modified. For earlier decision, see (1942) — Ind —, 47 PUR(NS) 115, 45 NE(2d) 484.

**APPEARANCES:** Davis, Baltzell & Sparks and Baker, Daniels, Wallace & Seagle, all of Indianapolis, Urban C. Stover, Deputy Attorney General, George N. Beamer, Attorney General, Cooper, Royse, Gambill & Crawford, of Terre Haute, and Rawley & Stewart, of Brazil, for appellants; Beasley, O'Brien, Lewis & Beasley and Frank Hamilton, all of Terre Haute, for appellees.

**SHAKE, J.:** The Terre Haute Gas Corporation has petitioned for a rehearing and the Indiana Gas Utilities Company for modification of the mandate.

The case of *Sunshine Bus Lines v. Railroad Commission* (Tex Civ App 1941) 39 PUR(NS) 27, 149 SW (2d) 228, heretofore relied upon by the appellants has been overruled. *Webster v. Texas & P. Motor Transport Co.* (1942) — Tex —, 47 PUR(NS) 98, 166 SW(2d) 75. With this observation we are content to stand on the original opinion. The petition for a rehearing is denied.

It has been called to our attention that since the principal opinion was filed, the Public Service Commission

of Indiana has held a hearing and entered an order or orders approving the sale of the physical assets, franchises and permits of Indiana Gas Utilities Company to the Terre Haute Gas Corporation. Under these circumstances no good purpose would be served by requiring said parties to restore the status quo ante as ordered by the judgment of the Clay circuit court. The petition of Indiana Gas Utilities Company is sustained and the mandate of this court is hereby modified to read as follows: The Clay circuit court is directed to strike from its final judgment in this cause the part thereof by which the Terre Haute Gas Corporation was ordered and directed to reconvey to the Indiana Gas Utilities Company all the property attempted to be sold and conveyed to said Terre Haute Gas Corporation; also, to strike from said judgment the part thereof requiring said parties to restore the ownership, management, and control of said property to the status which existed on the date of the filing of the original complaint. Subject only to the aforesaid modifications, the judgment of the Clay circuit court is affirmed.



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### *New Line of "Multifit" Connectors*

Straight connectors and reducers, tees, and terminal lugs are included in the new line of "Multifit" connectors just completed and put into production by Penn-Union Electric Corporation, Erie, Pa.

Every fitting in the new "Multifit" line can be used for a wide range of conductor sizes,



### *Penn-Union "Multifit" Connectors*

the company reports. For example, one tee takes any cable from 1/0 to 300 mcm on either run or tap—and full torque will be exerted on conductors of every size.

"Multifit" connectors grip the conductors by means of U-bolts with integral saddles, providing generous holding area and distributing the pressure on the conductor, according to the manufacturer.

Among the standard "Multifit" connectors now regularly stocked are straight connectors and reducers with 2, 4 or more bolts; tees with 1 or 2 bolts on run and tap; terminals with any number of bolts, straight or angle flanges, variously drilled. Each made for a complete range of cable sizes up to 2,000,000 cm.

Every Multifit connector is extremely substantial, with an exceptionally wide margin of mechanical strength and conductivity. Lock washers give protection against vibration, preventing loosening of the bolts under any conditions of use.

### *P-7, Fluorescent Unit, Improved*

P-7, the fluorescent extension cord unit with a "multiplicity of uses," has now been improved by Sylvania Electric Products engineers.

According to the company, changes in design permit lightning fast lamp change; ends

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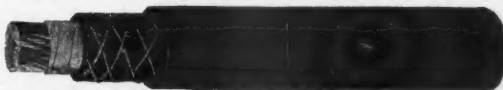
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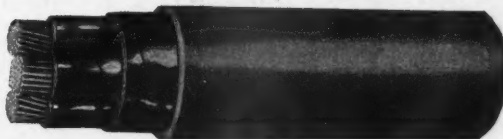
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### Equipment Notes (Cont'd)

have been rounded; rigid hanging hook is riveted to the end cap; the white Miracoat (U. S. Reg. Trademark) reflector provides maximum light output while the rugged French gray grill of the lamp guard and end cap assures a good serviceable finish to withstand the rough service to which this unit is adapted.

P-7 utilizes the small 6-watt fluorescent lamp which provides an adequate amount of cool, glare-free illumination in those tight, hard-to-get-at places. The reflector shields the light source from the user and eliminates the danger of eye fatigue. A protecting grill prevents lamp and socket breakage. The small manual starting switch, rubber-covered cord, remotely mounted ballast, and light weight of the unit are all additional features.

### Exact Withholding Taxes Computed Instantly With New, Simple Chart

A simple and accurate one-page chart for the instantaneous figuring of withholding taxes on the nearest dollar of wage (nearest 10c of tax) has been published by Rand McNally & Company, Chicago.

Called the "Rand McNally Fingertip Withholding Tax Chart," it will, according to the publishers, permit a payroll clerk to determine withholding taxes to the nearest dime almost as fast as the tax can be written down, and faster than the tax can be determined, on either the exact or bracket basis, by any other device. Any code already in use can be applied to the chart without change. No skill or experience is needed to use the chart.

There are three Fingertip Charts, one for each popular payroll period: weekly, biweekly, and semimonthly. They are available at stationery and office supply dealers, or direct from any Rand McNally & Company office at \$3.50 each.

### New Welder Filter Announced

The Badger Mfg. & Sales Co., 327 E. Brown St., Milwaukee, Wisc., has introduced a permanent filter for d. c. generator welding units designed to eliminate the need for a constant investment and inventory of renewable or "throw-away" filters. The new filter doubles the life of generator and excitor brushes by taking all the damaging dust out of the air going into the welder, the manufacturer claims.

Easily attached to any d. c. welding unit, the life of the Badger filter is from 4 to 5 years.

### Ascroft Pulsation Dampener

The Ascroft gauge division of Manning, Maxwell & Moore, Inc., Bridgeport, Conn., announces the manufacture of a new Type 1106

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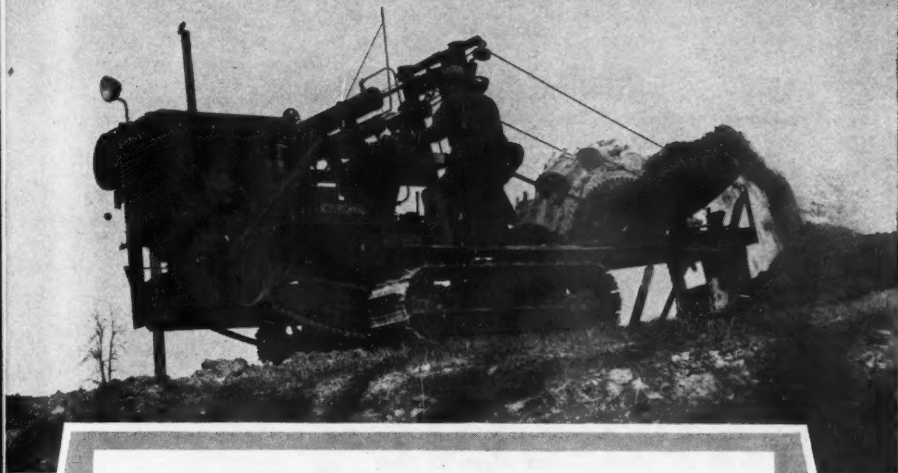
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**Equipment Notes (Cont'd)**

Ashcroft Pulsation Dampener—a small, compact, and effective throttling device, designed for use with pressure gauges subject to severe pressure pulsations and rapid fluctuations, such as on reciprocating pumps.

Good for all pressures up to 5000 p.s.i. and for any pressure medium such as air, water, oil, or steam, whenever a dampening device is needed, the Dampener, according to the manufacturer, eliminates excessive or harmful pointer vibration, saves wear on the gauge movement, saves time in reading the true mean pressure, helps keep the gauge in calibration, and prolongs gauge life.

**Catalogs and Bulletins****60-Page Catalog of G-E Insulating Materials**

A new 60-page catalog covering the entire line of G-E insulating materials is announced by the resin and insulation materials division of General Electric's appliance and merchandise department. The catalog lists and describes hundreds of items including varnished cloths, varnishes, Glyptals, tapes, cords, cotton sleeving, varnished tubings, mica, wedges, soldering materials, cements and compounds.

Tab sheets separate the catalog sections, each of which is devoted to a different type of material. In addition to a general index, there is a separate index for each section printed on

the section tabs. A plastic binding permits the catalog to lie flat when opened. Copies are available on request.

**Manufacturers' Notes****RSIE Names Sales Representative**

Mark G. Mueller has been recently appointed sales representative for the Railway and Industrial Engineering Company for the Denver district.

Mr. Mueller is a graduate of Iowa State in Electrical Engineering.

He was a sales engineer for Century Electric Company for eleven years, covering the Pittsburgh, Pa., Kansas City, and Denver territory.

In 1932 he became established in Denver as a sales representative.

**Johns-Manville Promotes****E. A. Phoenix**

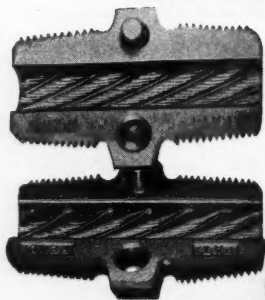
The appointment of E. A. Phoenix as assistant manager of the Transite Asbestos Pipe Department of Johns-Manville was announced recently by T. K. Mial, vice president in charge of industrial sales.

Mr. Phoenix began his business career with the Kieselguhr Company of America in 1915. This firm later became The Celite Products Company which became part of Johns-Manville Corporation in 1928. After serving in va-

(Continued on page 42)

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Write for details of this—the only **PERFECTED** wire rope clamp on the market. Used by the Armed Forces and thousands of industries. Millions in daily use.

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SEPT. 16, 1943

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**Ric-wil****FURNISHED MORE THAN 25,000 FT. OF  
PREFABRICATED INSULATED PIPE CONDUIT**

### For Terrace Village Housing Unit No. 2 in Pittsburgh

*Fuel savings of 15% or better are made possible in this mammoth project by a central heating system. Ric-wil pre-fabricated pipe units provide the insulation and protection for the entire underground distribution system.*

A total of 83 buildings, comprising 1851 living suites, are supplied with heat and hot water from a central plant, through an underground distribution system containing over 25,000 lineal feet of Ric-wil pre-sealed Insulated Pipe Units. High-pressure steam from the plant is piped through Ric-wil steam conduit to six scattered stations where hot water is generated and circulated through Ric-wil conduit to all the buildings, for heating and hot water supply. Thus the project realizes the economy of steam, and the temperature control and convenience of hot-water heating.

All conduit was factory pre-fabricated and shipped pre-sealed to the site in convenient lengths. Installation was made in record time, with a minimum of excavation and backfill, saving countless man-hours and interfering little or none with other construction. The system is highly efficient, permanent, and maintenance-free—typical of all Ric-wil engineered projects.

*Ric-wil Insulated Pipe Units are ideal for hospital, school, industrial or municipal installations of all kinds. Let us show you their advantages on your next construction project.*

*Line of Ric-wil conduit from anchor to boiler house (top, left). Note shallow, narrow trench. Installing connector band. All necessary accessories are prefabricated and shipped with order.*

**RIC-WIL**
**INSULATED PIPE CONDUIT SYSTEMS**  
**THE RIC-WIL COMPANY • CLEVELAND, OHIO**  
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# FURNACE TRANSFORMER

## *Facts*

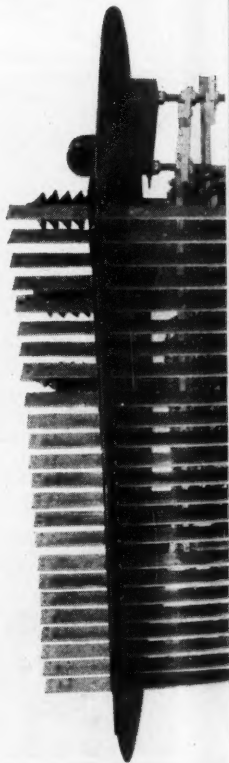
★ The transformer that supplies power to an electric furnace is an extremely complicated unit. The rules governing ordinary designs and construction of Power Transformers do not apply to Furnace Transformers. Many special conditions such as overloads, short circuit stresses, distribution of currents and reduction of eddy losses must be met by engineering skill and highly perfected workmanship.

### 1. OVERLOADS & SHORT CIRCUIT STRESSES

Electric Furnace operation inherently subjects Furnace Transformers to frequent short circuits and heavy overloads. The effect of this on the transformer is complicated by the wide range of voltages which necessitates cutting out large portions of the primary windings. The effects of both the radial and axial short circuit forces are greatly reduced in Pennsylvania Furnace Transformers by the use of Circular Coils and an ingenious winding arrangement.

### 2. BALANCING OF STRESSES

Pennsylvania coils are balanced to reduce the radial and axial short circuit stresses to a minimum. 1. The circular shape protects the coils against deformation due to radial short circuit forces. 2. The total axial short circuit force is calculated



deformation due to radial short circuit forces. 2. The total axial short circuit force is calculated

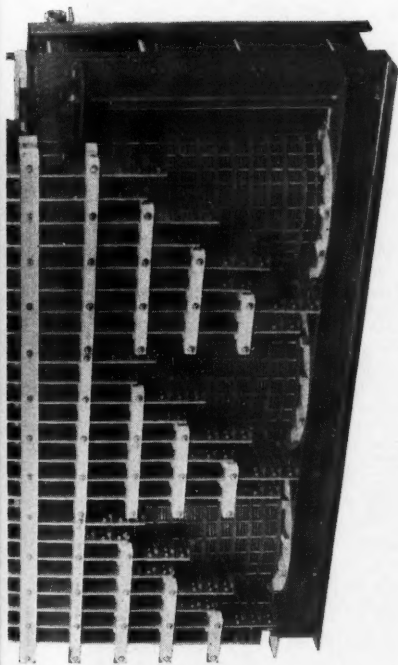
for each design and the coils are subjected to an equivalent pressure in a three hundred ton hydraulic press. The ability of the coils to maintain their shape, under the prescribed pressure, guarantees that the transformer will safely withstand short circuits.

### 3. DISTRIBUTION OF CURRENTS

Due to the heavy secondary currents, the winding must be subdivided into numerous parallel sections. A skillful arrangement of the windings insures that each section carries an equal share of the current.

Careful transposition of the individual conductors of each section in the windings reduces the copper eddy losses to a minimum. This results in improved efficiency, more uniform copper temperature and prevention of hot spots.

Send your furnace transformer inquiries to Pennsylvania Furnace Transformer Experts.



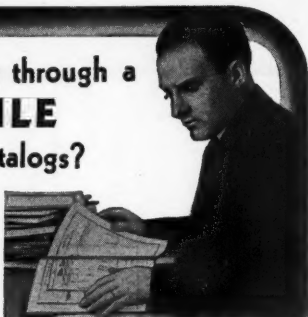
Pennsylvania Transformer Company has acquired a noted reputation in the Furnace Transformer field. For over thirty years its engineers have closely followed the development of electric furnaces. They fully understand the problems of Electric Furnaces and their relation to Furnace Transformers.

**Pennsylvania**  
TRANSFORMER COMPANY  
PITTSBURGH, PENNSYLVANIA



## Why dig through a PILE of Catalogs?

Find the  
Fitting  
you need,  
quickly—



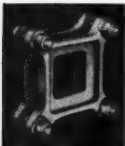
in the **COMPLETE** line

If you have a Penn-Union Catalog, you can instantly find practically every good type of conductor fitting. These few can only suggest the variety:



**Universal Clamps** to take a large range of conductor sizes; with 1, 2, 3, 4 or more bolts.

**L-M Elbows**, with compression units giving a dependable grip on both conductors. Also **Straight Connectors** and **Tees** with same contact units.



**Bus Bar Clamps** for installation without drilling bus. Single and multiple. Also bus supports—various types.



**Clamp Type Straight Connectors** and Reducers, Elbows, Tees, Terminals, Stud Connectors, etc.



**Jack-Knife** connectors for simple and easy disconnection of motor leads, etc. Spring action—self locking.

**Vi-Tite** Terminals for quick installation and easy taping. Also sleeve type terminals, screw type, shrink fit, etc. etc.



**Splicing Sleeves**, Figure 8 and Oval, seamless tubing—also split tinned sleeves. High conductivity copper; close dimensions.

**Preferred** by the largest utilities and electrical manufacturers—because they have found that "Penn-Union" on a fitting is their best guarantee of Dependability. Write for Catalog.

**PENN-UNION ELECTRIC CORPORATION**  
ERIE, PA. *Sold by Leading Jobbers*

# PENN-UNION

CONDUCTOR FITTINGS

Mention the FORTNIGHTLY—It identifies your inquiry

SEPT. 16, 1943

### Manufacturers' Notes (Cont'd)

rious sales and advertising positions, Mr. Phoenix was made assistant sales promotion manager in April, 1936. In May, 1942, because of his knowledge of the company's widely diversified product lines, he was transferred to the Priorities Department, a position which he held until his recent promotion.

In 1940, Mr. Phoenix became a member of the Johns-Manville Quarter Century Club, an honorary organization composed of those who have been with the company 25 years or more.

Mr. Phoenix will serve as general assistant to Mr. C. A. McGinnis, manager of the Transite Pipe Department, and will specialize in field sales and educational phases of the business.

### Jack Moore Joins Silex As Sales Promotion Manager

J. M. (Jack) Moore has joined The Silex Company, Hartford, Conn., as sales promotion manager. He was formerly supervisor of sales offices and merchandise manager of the Union Electric Company of Missouri and the St. Louis County Gas Company.

### V-Loan for Elliott Company

A \$7,000,000 V-Loan has been approved for the Elliott Company, Jeannette, Pa., by the Navy Department, and will be handled by the Guaranty Trust Company of New York with New York and Pittsburgh banks participating, announces G. B. Shipley, Elliott Company, president and chairman of the board.

The loan has been granted to provide additional working capital for further expansion of war production contracts.

### ASHVE to Hold 50th Annual Meeting

"The Past," "The Present," and "The Future" will be portrayed at the 50th Annual Meeting of the American Society of Heating and Ventilating Engineers to be held at the Hotel Pennsylvania, New York, N. Y., January 31, February 1 and 2, 1944.

To properly commemorate the 50th Anniversary of the organization of the Society the Committee on Arrangements of the New York Chapter is developing a special program which will be appropriate for the occasion.

A three-day session will be held and technical papers of basic importance will be presented.

### Mark Wolff to Resume Former Practice

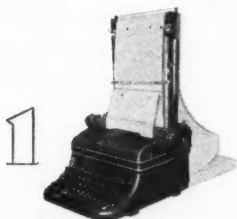
Mark Wolff, public utility consultant, 261 Broadway, New York City, has resigned from the O.P.A. as a special consultant to the utilities branch to resume his former practice.

Prior to his association with the O.P.A., Mr. Wolff has served during the past 25 years either the Public Service Commission, State Attorney General, or both, of New York, New Jersey, South Carolina, Alabama, Mississippi, Louisiana, Tennessee, Indiana, and Illinois, besides many municipalities.

# 4 WAYS IN WHICH

## EGRY "Sit in Writing" BUSINESS SYSTEMS

### HELP MEET THE LABOR SHORTAGE



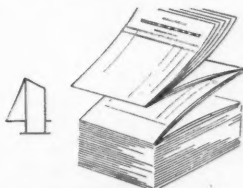
**1** EGRY SPEED-FEED may be attached to any standard make typewriter in one minute, and with EgrY Continuous Forms, doubles the output of the operator—makes one machine do the work of two.



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## **BIG PUSH CALLS FOR STEEL**

# **Scrap faster . . . Win sooner!**

With Axis morale sinking faster under every bombing . . . with the fortress of Europe cracking ahead of schedule . . . we're setting up the Axis for the final hay-maker!

That means an advance behind a curtain of shrieking steel . . . continuous barrages blasting our enemies round-the-clock until they say Uncle!

### **The Time Is Now**

So our war planners have flashed an urgent message *to keep the steel coming*. And remember, half of the huge production will be scrap. Will we make it? Of course we will!

We'll make it because every ton, pound and ounce of that steel scrap now so urgently needed will help to shorten the war by just that many days, hours and minutes!

We'll make it because that means saving the lives of so many dear to us who are out there somewhere today, getting set for the big push.

**If you have done a successful salvage job at your plant, send details and pictures to this magazine.**

### **Be Wise—Organize!**

So *organize* your scrap drive . . . make it a continuous operation . . . in charge of a square-jawed executive with authority to keep it rolling!

And segregate your steel types, wherever possible, according to alloys and grades. It will save time all along the line . . . get your steel into the fight faster!

No matter how many times you have looked . . . look again . . . and *keep right on looking!* For only then will the furnaces be able to push capacity to the limit . . .

## **BUSINESS PRESS INDUSTRIAL SCRAP COMMITTEE**

Room 1310, 50 Rockefeller Plaza,  
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**SEND FOR PRIMER OF INDUSTRIAL  
SCRAP TO HELP YOU TACKLE THE  
SALVAGE PROBLEM.**



## THE BIG JOB

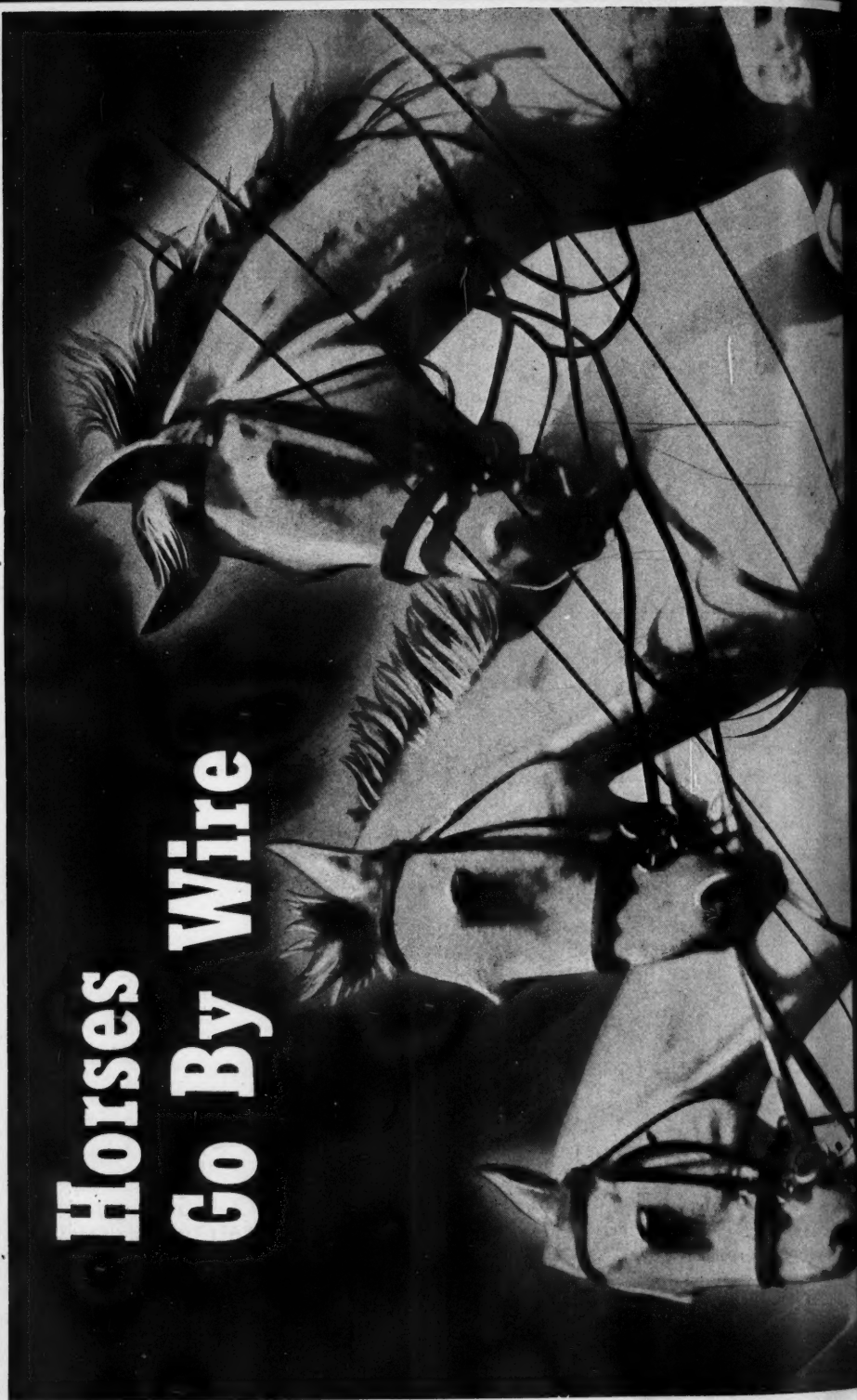
Mercoid Controls are still being built and sold, though the volume is almost entirely on industrial types. These carry the highest war priority and find their way into war plants everywhere throughout the country, where they are doing their important part in the big job of essential production.

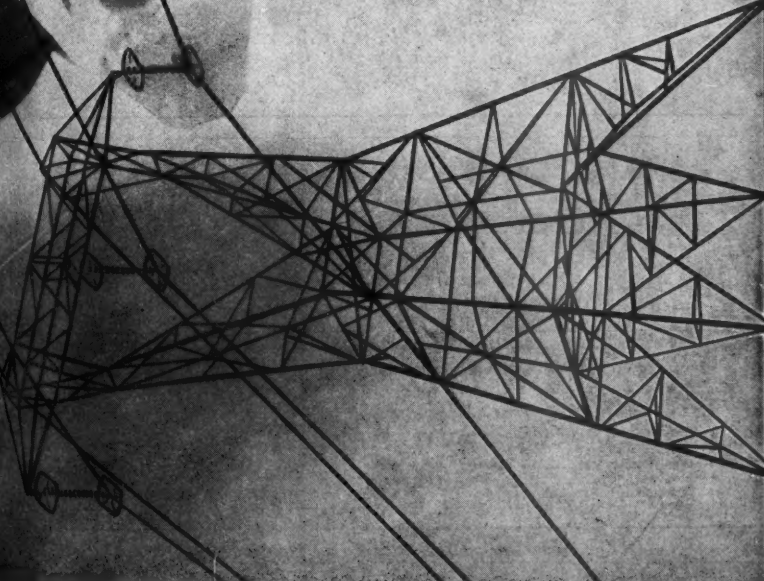


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# Horses Go By Wire





Dally millions of horsepower flow from power stations to points of production — over wires supported by Blaw-Knox transmission towers. And because these towers are extra sturdy, sound of design, carefully fabricated, properly galvanized . . . they withstand storm and flood and frost giving adequate service over long periods at low maintenance cost. Engineers and others interested in power transmission are invited to share the benefit of the great experience and unique facilities of Blaw-Knox in this field.

# BLAW-KNOX TRANSMISSION TOWERS



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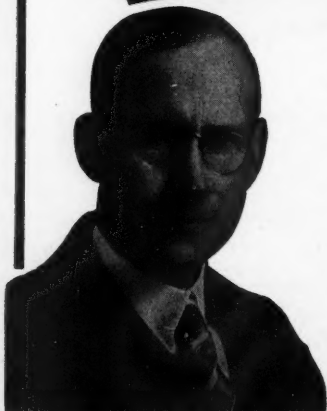
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Under the able management of Mr. A. L. Smyly, pioneer in gas purification and pressure regulation, this organization has continued its leadership in the field, and the fact that Connelly products are standard in hundreds of the leading gas plants of the country is indicative of the service rendered.

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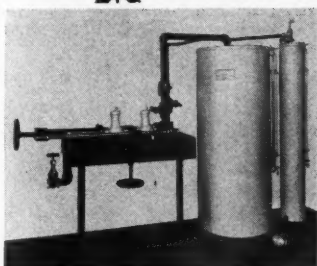
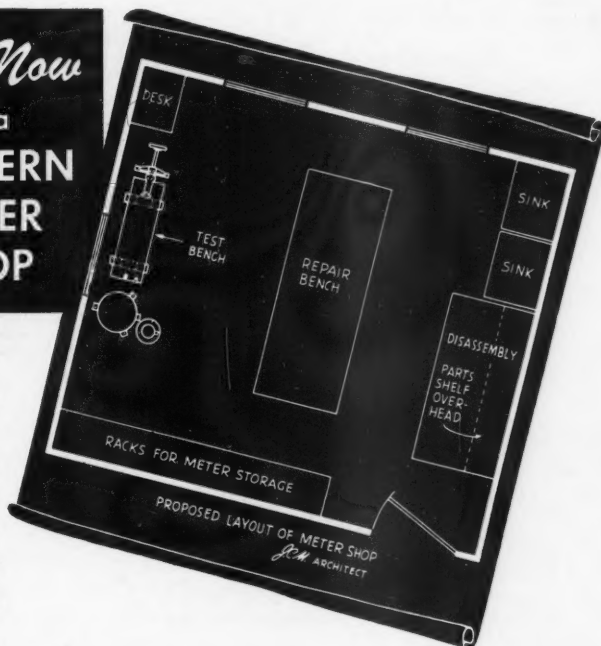


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That is why your post-war planning should include your meter shop. It is not too early to look into the modernization of testing equipment. The layout of the shop is also important. The proper arrangement of the necessary work benches, parts, bins, testing bench, etc. will enable the meter man to do a better job. An efficient meter shop need not be elaborate nor expensive . . . but remember that it is the heart of the metering end of your water system; and it will pay you to plan it carefully.

## Plan Now for a MODERN METER SHOP



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HWAY TRANSPORT...VITAL TO VICTORY AND THE AMERICAN WAY OF LIFE

## Greater than the "Exodus"

Since war started, a movement of people has taken place in America which is even greater than the historical "Exodus" from Egypt to the Land of Canaan. This migration of millions of people to war production centers, accompanied by the construction of thousands of homes and factories, has enabled Highway Transport to make one of its greatest war contributions. Here's evidence from the metropolitan center of our second largest war production area:

In two years its population has increased more than 300,000. Its coach lines carried 30,000,000 more passengers in 1942 than in 1941. An estimated 85% to 90% of the motor trucks on its highways carry loads of vital war materials and products.



### GENERAL MOTORS TRUCK & COACH

Division of Yellow Truck & Coach Manufacturing Company

Home of GMC Trucks and Yellow Coaches . . .

Manufacturer of a Wide Variety of Military

Vehicles for our Armed Forces

Joseph B. Eastman, director of the Office of Defense Transportation, recently stated: "Automotive Transportation is absolutely essential to the winning of the War. Goods must reach their destinations and workers must get to their jobs . . . on time." Join the U. S. Truck Conservation Corps and keep your trucks in best possible condition. Your GMC dealer is pledged to help you.



INVEST IN VICTORY  
... BUY WAR BONDS AND STAMPS



*An Engineering Executive from New England writes:*

**"It seems to me that an attempt to standardize heavy apparatus is timely and can be carried out without interfering with progress in design."**



**A**MONG the responses to General Electric's proposal advocating further standardization of power apparatus, this comment from New England strikes a particularly pertinent note. It recognizes the fact that standardization need not mean the freezing of design.

Indeed, development of designs for repetitive manufacture often involves more real pioneering than a succession of "tailoring" jobs. G-E metal-clad switchgear is a case in point, where improvement continues year after year. Our wartime mass production of turbines for ship propulsion has also moved hand in hand with increasingly efficient design.

In this same letter, the writer goes

on to say: "Savings in both manufacture and adaptation will certainly result from this program. We will be pleased to co-operate with you."

It is such willingness to co-operate we believe, that will make this plan bring about lower equipment costs. Builders and users must work together. They must be willing to accept minor limitations on individual preference for the sake of major gains over all. That is why we are anxious to have you explore the proposal with your associates, bringing to our attention any unanswered questions that may arise. General Electric, Schenectady, N. Y.

**GENERAL  ELECTRIC**  
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